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*John H. Robinson*

# LIQUOR LAWS

OF THE

## UNITED STATES.

PROHIBITORY, LICENSE, LOCAL OPTION  
TAX, AND CIVIL DAMAGE LAWS.



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NEW YORK:

National Temperance Society and Publication House  
58 READE STREET.

1878.

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PROHIBITORY, LICENSE, LOCAL OPTION, TAX,  
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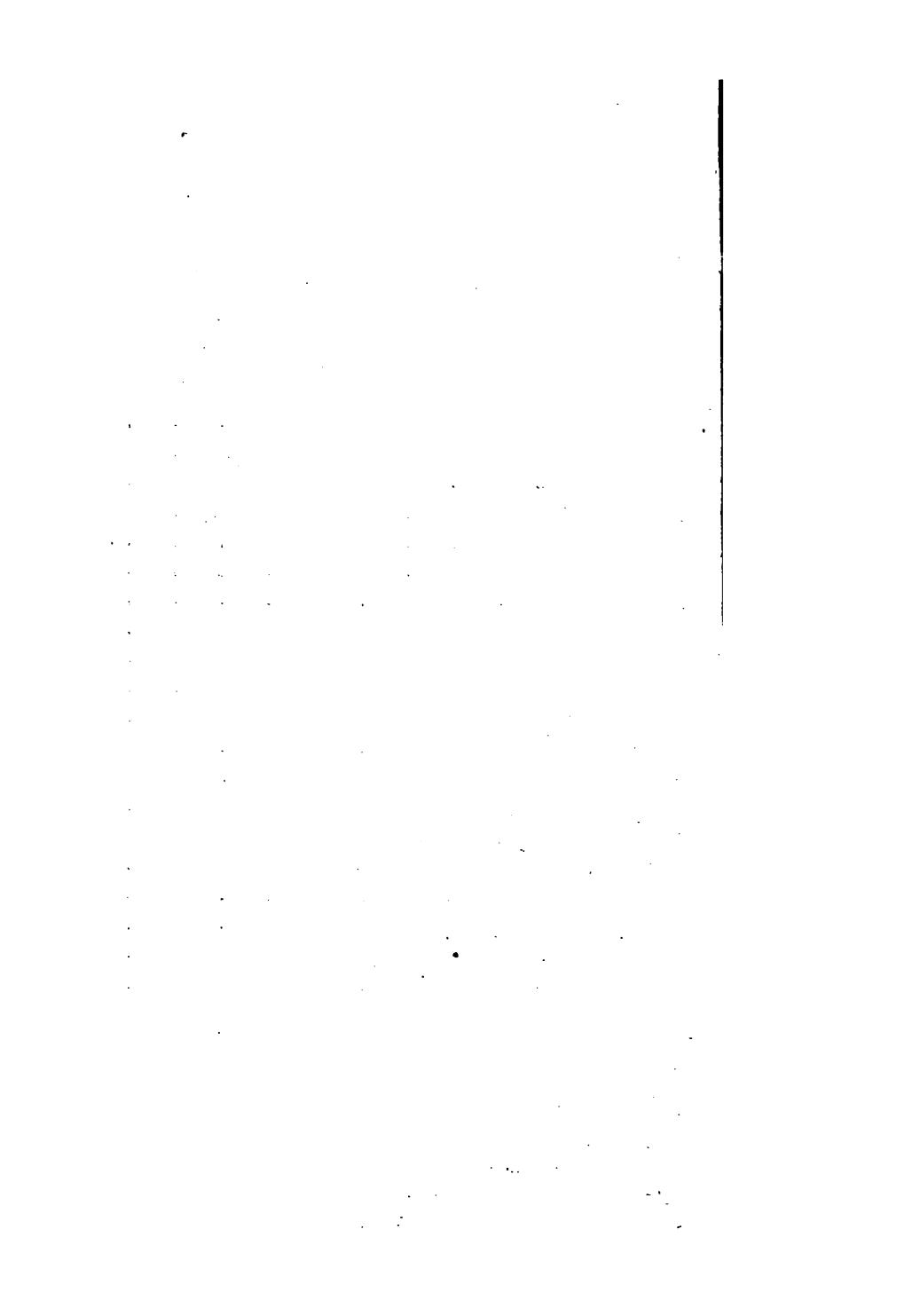
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# THE LIQUOR LAWS OF AMERICA.

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## MAINE.

CHAPTER 27 of the Revised Statutes refers to inn-holders, victuallers, and intoxicating liquors. Sections 14 to 22 refer to a State Agency for the sale of intoxicating liquors. The Governor appointed a commissioner to furnish municipal officers of towns with pure, unadulterated liquors for medicinal, mechanical, and manufacturing purposes. Section 22 commences with what is termed the "Maine Law." We give the law as amended Feb. 29, 1872.

Sec. 22. No person shall be allowed at any time to sell, by himself, his clerk, servant, or agent, directly or indirectly, any intoxicating liquors, except as hereafter provided. Ale, porter, strong beer, lager-beer, and all other malt liquors, wine, and cider, shall be considered intoxicating liquors within the meaning of this chapter, as well as all distilled spirits; but this enumeration shall not prevent any other pure or mixed liquors from being regarded as intoxicating.

Sec. 23. No person shall manufacture any intoxicating liquor for unlawful sale. Any manufacturer of intoxicating liquors shall be allowed to sell intoxicating liquors manufactured by him within this State to municipal officers authorized by law to purchase the same, provided he shall first give a bond in the sum of five thousand dollars, with good and sufficient sureties resident in this State, payable to the treasurer of the city or town within which the manufactory shall be established, or his successors, and shall file the same with such treasurer, and to the satisfaction and approval of the aldermen of such city, or the selectmen of such town, conditioned that he will not sell any intoxicating liquors ~~except of his own manufacture~~; that he will not, by himself or ~~either~~, in any mode adulterate such liquors, either by coloring,

matter or any other drug or ingredient, nor mix the same with other liquor of different kind or quality, nor with liquor of any kind not manufactured by himself, nor with water; that all casks and vessels containing liquors sold by him shall at the time of sale be plainly and conspicuously marked with the name of the manufacturer, the place of manufacture, and the name, quality, and strength of the liquor; that he will not sell any intoxicating liquors in quantities less than thirty gallons delivered in a single vessel, and carried away at one time; and that he will not sell any intoxicating liquors to any person except to such persons as are authorized by this chapter to purchase the same. The foregoing provisions shall not authorize the manufacture for sale of intoxicating liquors except pure rum and alcohol. The manufacture for sale of all other kinds of intoxicating liquors, except cider, is hereby prohibited, and any person convicted thereof shall be punished the same as is provided in the following section.

Sec. 24. Any person who shall sell within this State any intoxicating liquors manufactured by him within this State, without first giving the bond provided in the preceding section, shall be punished by imprisonment two months in the county jail and by fine of one thousand dollars; and if any person who has given such bond shall commit any breach of the conditions thereof, it shall be the duty of the aldermen and selectmen respectively of the city or town within which such manufactory shall be established to cause the same to be put in suit and prosecuted to final judgment and satisfaction.

Sec. 25. The provision of this chapter shall not extend to the manufacture and sale of unadulterated cider by the manufacturer, nor to the sale, by agents appointed under the provisions of this chapter, of pure wine for sacramental and medicinal uses.

Sec. 26. The selectmen of any town, and mayor and aldermen of any city, shall, on the first Monday of May, annually, or as soon thereafter as may be convenient, purchase such quantity of intoxicating liquors as may be necessary, to be sold under the provisions of this chapter, and shall appoint some suitable person as the agent of said town or city to sell the same at some convenient place within said town or city, to be used for medicinal, mechanical, and manufacturing purposes, and no other; and such agent shall receive such compensation for his services, and in the sale of such liquors shall conform to such regulations, not inconsistent with the provisions of law, as the board appointing him shall prescribe, and he shall hold his situation one year unles-

sooner removed by them or their successors in office. Vacancies occurring during the year are to be filled in the same manner as original appointments are made. No such agent shall have any interest in such liquors, or in the profits of the sale thereof. Such agent may sell to such municipal officers intoxicating liquors, to be by said officers disposed of in accordance with the provisions of this chapter.

SEC. 27. Such agent shall receive a certificate from the board by which he is appointed, authorizing him as the agent of such town or city to sell intoxicating liquors for medicinal, mechanical, and manufacturing purposes only ; but such certificate shall not be delivered to the person so appointed until he shall have executed and delivered to said board a bond, with two good and sufficient sureties, in the sum of six hundred dollars, in substance as follows:

Know all men, that we, —, as principal, and —, as sureties, are holden and stand firmly bound to the inhabitants of the town of — (or city, as the case may be) in the sum of six hundred dollars, to be paid them, to which payment we bind ourselves, our heirs, executors, and administrators, firmly by those presents.

Sealed with our seals, and dated this — day of —, A.D. —.

The condition of this obligation is such that, whereas, the above bounden — has been duly appointed an agent for the town (or city) to sell intoxicating liquors for medicinal, mechanical, and manufacturing purposes and no other, until the — of — A.D. —, unless removed from said agency. Now, if the said — shall in all respects conform to the provisions of the law relating to the business for which he is appointed, and to such regulations as now are or shall be from time to time established by the board making the appointment, then this obligation to be void, otherwise to remain in full force.

SEC. 28. If any person, by himself, clerk, servant, or agent, shall at any time sell any intoxicating liquors in violation of the provisions of this chapter, he shall forfeit and pay on the first conviction a fine of thirty dollars and the costs of prosecution, or, instead of such fine, in the discretion of the court imposing sentence, shall be imprisoned in the county jail thirty days ; on the second conviction, he shall pay twenty dollars and the costs of prosecution, and in addition thereto shall be imprisoned in the county jail sixty days ; on the third and every subsequent conviction, he shall pay twenty dollars and the costs of prosecution,

and shall be imprisoned in the county jail three months, and, in default of the payment of the fines and costs prescribed by this section for the first conviction, the convict shall not be entitled to the benefit of chapter one hundred and thirty-five until he shall have been imprisoned two months; in default of fines and costs provided for the second conviction, he shall not be entitled to the benefit of said chapter until he shall have been imprisoned three months; and in default of payment of fines and costs provided for the third and every subsequent conviction, he shall not be entitled to the benefit of said chapter until he shall have been imprisoned four months. And if any clerk, servant, agent, or other person in the employment or on the premises of another shall violate the provisions of this section, or aid and assist therein, he shall be held equally guilty with the principal, and, on conviction, shall suffer like penalty.

SEC. 29. No person shall be a common seller of intoxicating liquors. Any person convicted of a violation of this section shall be punished by fine of one hundred dollars and costs of prosecution, and, in default of the payment thereof, he shall be imprisoned sixty days in the county jail, or instead of such fine he may be imprisoned in the county jail three months. On a second conviction and every subsequent conviction he shall be punished by a fine of two hundred dollars and costs of prosecution and imprisonment four months in the county jail, and, in default of the payment of the fine and costs, he shall be punished by four months' additional imprisonment.

SEC. 30. Persons selling by authority and according to the provisions of the twenty-third and twenty-sixth sections are not common sellers.

SEC. 31. No person shall keep a drinking-house and tippling-shop within this State. If any person shall sell any intoxicating liquors in any building, vessel, or boat in this State contrary to the provisions of law, and the same are there drunk, he shall be deemed and held to be guilty of keeping a drinking-house and tippling-shop. Any person convicted of keeping a drinking-house and tippling-shop within this State shall be punished by a fine of one hundred dollars and costs of prosecution, and, in default of payment thereof, by imprisonment in the county jail three months, or, instead of such fine, shall be imprisoned in the county jail three months on the first conviction, and on every subsequent conviction he shall be imprisoned six months in addition to the fine and costs.

MAINE.

SEC. 32. Every wife, child, parent, husband, or other person who shall be injured in person, property, means of support, or otherwise by any intoxicated person, or by reason of the intoxication of any person, shall have a right of action in his or her own name against any person or persons who shall by selling or giving any intoxicating liquors, or otherwise, have caused or contributed to the intoxication of such person or persons ; and in any such action the plaintiff shall have a right to recover actual and exemplary damages. And the owner or lessee, or person or persons renting or leasing any building or premises, having knowledge that intoxicating liquors are sold therein in violation of law, shall be liable, severally or jointly, with the persons so selling or giving intoxicating liquors as aforesaid. And in every action by any wife, husband, parent, or child, general reputation of the relation of husband and wife, parent, or child shall be *prima facie* evidence of such relation, and the amount recovered by every wife or child shall be his or her sole and separate property.

SEC. 33. No person shall deposit or have in his possession any intoxicating liquors with intent to sell the same in this State in violation of law, or with intent that the same shall be so sold by any person, or to aid or to assist any person in such sale.

SEC. 34. All intoxicating liquors kept and deposited in this State, intended for unlawful sale in this State, and the vessels in which they are contained, are hereby declared contraband and forfeited to the cities, towns, and plantations in which they are so kept at the time when they are seized by virtue of any of the provisions of this chapter. And in all cases where by any of the provisions of this chapter an officer is authorized to seize intoxicating liquors or the vessels containing them, by virtue of a warrant therefor, he may seize the same without a warrant, and keep them in some safe place for a reasonable time until he can procure such warrant.

SEC. 35. If any person competent to be a witness in civil suits shall make complaint upon oath or affirmation before any judge of any municipal or police court, or trial justice, that he believes intoxicating liquors are unlawfully kept or deposited in any place in the State, by any person or persons, and that said liquors are intended for sale within this State in violation of law, such magistrate shall issue his warrant, directed to any officer having power to serve criminal process, commanding such officer to search the premises described and specially designated in such complaint and

warrant, and, if said intoxicating liquors are there found, to seize the same with the vessels in which they are contained, and them safely keep until final action on the same, and make immediate return of said warrant. The name of the person so keeping, as aforesaid, said liquors, if known to the complainant, shall be stated in such complaint, and the officer shall be commanded by said warrant, if he shall find said liquors, or shall have reason to believe such person has concealed them about his or her person, to arrest such person or persons, and have him or them forthwith before such magistrate for trial. If the name of the person keeping such liquors is unknown to the complainant, he shall so allege in his complaint, and such magistrate shall thereupon issue his warrant as provided in the first clause of this section. If upon trial the court, upon the evidence adduced, shall be of the opinion that the liquors were so as aforesaid kept and intended for unlawful sale by the person or persons named in said complaint, or by any other person or persons with his or their knowledge or consent, he or they shall be found guilty thereof, and sentenced to pay a fine of fifty dollars and costs of prosecution, and, in default of payment thereof, to be imprisoned thirty days in the county jail, or, instead of such fine, shall be imprisoned in the county jail three months.

SEC. 36. When liquors and vessels are seized as provided in the preceding section, it shall be the duty of the officer who made such seizure immediately to libel the liquors and the vessels so seized by him by filing with the magistrate before whom such warrant is returnable a libel against such liquors and vessels, setting forth their seizure by him, describing the liquors and their place of seizure, and that they were deposited, kept, and intended for sale within the State in violation of law, and pray for a decree of forfeiture of said liquors and vessels, and such magistrate shall thereupon fix a time for the hearing of such libel, and shall issue his monition and notice of such libel to all persons interested, citing them to appear at the time and place appointed, and show cause why said liquors and the vessels in which they are contained should not be declared forfeited, by causing a true and attested copy of said libel and monition to be posted in two public and conspicuous places in the town or place where such liquors were seized ten days at least before the day in which said libel is returnable.

SEC. 37. If no claimant shall appear, such magistrate shall, *on proof of notice as aforesaid*, declare the same forfeited to the

city, town, or plantation in which they were seized. If any person shall appear and claim such liquors, or any part thereof, as having a right to the possession thereof at the time when the same were seized, he shall file with such magistrate such claim in writing, stating specifically the right so claimed, and the foundation thereof, the items so claimed, and the time and place of the seizure, and the name of the officer by whom the same were seized, and in it declare that they were not so kept or deposited for unlawful sale, as alleged in said libel and mortition, and also state his business and place of residence, and shall sign and make oath or affirmation to the truth of the same before said magistrate. If any person shall so make claim, he shall be admitted as a party to the process; and the said magistrate shall proceed to determine the truth of the allegations in said claim and libel, and may hear any pertinent evidence offered by the libellants or claimants. If the magistrate shall, upon the hearing, be satisfied that the said liquors were not so kept or deposited for unlawful sale, and that the claimant is entitled to the custody of any part of the same, he shall give to such claimant an order in writing, directed to the officer having the same in custody, commanding him to deliver to the said claimant the liquors to which he is so found to be entitled, within forty-eight hours after demand.

If the magistrate shall find the claimant entitled to no part of said liquors, he shall render judgment against him for the libellant for costs, to be taxed as in civil cases before such magistrate, and issue execution thereon, and shall declare said liquors forfeited to the city, town, or plantation where seized; the claimants may appeal, and shall be required to recognize with sureties as on appeals in civil causes from said magistrate.

SEC. 38. No warrant shall be issued to search a dwelling-house occupied as such, unless it, or some part of it, is used as an inn or shop, or for purposes of traffic, or unless the magistrate before whom the complaint shall be made is satisfied by evidence presented to him, and so alleges in said warrant, that intoxicating liquor is kept in such house or its appurtenances, and that said liquor is intended for sale in this State in violation of law.

SEC. 39. All liquors declared forfeited by any court by virtue of the provisions of this chapter shall, by order of the court rendering final judgment thereon, be destroyed by any officer competent to serve the process on which they were forfeited, and he shall make return accordingly to such court or magistrate. And such liquors shall be destroyed by pouring the same upon the

ground. All vessels forfeited under the provisions of law may be sold by said officers at public or private sale, and the proceeds thereof paid into the treasury of such city, town, or plantation.

SEC. 40. If complaint shall by any person be made upon oath to any magistrate against any person who is a claimant under the provisions of this chapter, alleging that the liquors so claimed by him were, prior to, and at the time when the same were seized, kept or deposited by said claimant, or by some person by his authority, and intended for unlawful sale in this State, either by such person or the said claimant, the magistrate shall issue his warrant against such claimant so charged, and he shall be arrested thereon, and be brought before such magistrate, and, if found guilty of the offence therein charged, he shall be punished by a fine of fifty dollars and costs of prosecution, and stand committed until the same be paid or he be otherwise discharged by due course of law, or, instead thereof, may be punished by imprisonment in the county jail three months on the first conviction, and on every subsequent conviction he shall be imprisoned three months in addition to fine and costs.

SEC. 41. If any officer having a warrant issued under this chapter committed to him directing him to seize any liquors and to arrest the owner or keeper thereof shall be prevented from seizing the liquors by their being poured out or otherwise destroyed, he shall arrest the alleged owner or keeper named in the warrant, and bring him before the magistrate, and make return upon the warrant that he was prevented from seizing said liquors by their being poured out or otherwise destroyed, as the case may be, and in his return he shall state the quantity so poured out or destroyed as nearly as may be, and the magistrate shall put the owner or keeper so arrested upon trial, and if on the trial it shall appear by competent testimony that such liquors were so poured out or destroyed, and that the liquors so poured out or destroyed were such as were described in the warrant, and they were so kept or deposited and intended for unlawful sale, and if the person so arrested shall be found to be owner or keeper thereof, he shall be fined and sentenced in the same manner as he would have been if the liquors described in the warrant and in the return had been seized on the warrant and brought before the magistrate by the officer.

SEC. 42. If any deputy sheriff, after having executed such a *warrant by a seizure, shall die or go out of office before final execution in the proceedings be done, the liquors shall be held in the*

custody of the sheriff or another deputy. If any other officer shall die, or go out of office under like circumstances, it shall be the duty of the magistrate before whom the proceedings were commenced to designate in writing some officer lawfully authorized to execute such a warrant, who shall hold such liquors in his custody until final judgment and order of the court thereon.

Sec. 43. Liquors seized as hereinbefore provided, and the vessels containing them, shall not be taken from the custody of the officer by a writ of replevin or other process while the proceedings herein provided are pending; and final judgment in the proceedings herein provided shall in all cases be a bar to all suits for the recovery of any liquors seized, or the value of the same, or for damages alleged to arise by reason of the seizure and detention thereof.

Sec. 44. All prosecutions against persons for manufacturing liquors in violation of law, for keeping drinking-houses and tippling-shops, and for being common sellers of intoxicating liquors, shall be by indictment; and in all other prosecutions under this chapter, judges of municipal and police courts and trial justices shall have jurisdiction, by complaint, original and concurrent with the supreme judicial court. All prosecutions in the supreme judicial court shall be by indictment. The magistrates aforesaid, in cases not within their jurisdiction, may examine and hold to bail. And in all appeals from any judgment or sentence before any such magistrate, the penal sum in every recognizance shall be two hundred dollars. No recognizance before any such magistrate shall be in a less sum than two hundred dollars, nor in the supreme judicial court less than five hundred dollars.

Sec. 45. Every trial justice, recorder, and judge of a municipal or police court, and every county attorney, having knowledge of any previous conviction of any person accused of violating this chapter, in preparing complaints, warrants, or indictments, shall allege such previous conviction therein, and, after an indictment in any such case is entered in court, no county attorney shall dismiss or fail to prosecute the same, except by special order of said court.

Sec. 46. When a person has been found guilty in the supreme judicial court of a violation of any of the provisions of this chapter relating to spirituous liquors, the county attorney shall have him sentenced at the same term, unless for reasons satisfactory to the court the case may be continued for sentence one term, but no longer.

SEC. 47. If any party shall appeal, the proceedings in all matters shall be the same in the appellate court as they would be upon the same matters in the court of the magistrate, and said proceedings shall be conducted in said court by the attorney for the State in the county where the proceedings are pending. The jury shall find specially, under the direction of the court, on all facts necessary to determine the adjudication of the court ; and, if a claimant or other respondent shall fail to appear for trial in the appellate court, the judgment of the court below, if against him, shall be affirmed. In case of appeal from a sentence of imprisonment under the twenty-eighth section, the penal sum of the recognizement shall be two hundred dollars ; and in all other appeals from any other judgment or sentence of a magistrate in proceedings under this chapter relating to drinking-houses and tippling-shops, the penal sum of the recognizance shall be one hundred dollars. No portion of the penalty of any recognizance taken in such case shall be remitted by any court in any suit thereon, nor shall any surety in any such recognizance be discharged from his liability therein by a surrender of his principal in court after he has been defaulted upon his recognizance. The appeals of claimants provided for in the thirty-seventh section shall be entered as all other appeals in criminal cases, and subject to the same requirements of law appertaining to them.

SEC. 48. Custom-house certificates of importation and proofs of marks on the casks and packages corresponding thereto shall not be received as evidence that the identical liquors contained in said casks and packages were actually imported in said casks and packages in any proceedings under this chapter.

SEC. 49. Any person hereafter found intoxicated in any of the streets or highways, or being intoxicated in his own house, or in any other building or place, who shall become quarrelsome, or in any other way disturb the public peace, or that of his own or any other family, so as to render it necessary for the police or peace officers to interfere, may be taken into custody by any sheriff, deputy sheriff, constable, marshal, deputy marshal, police officer, or watchman, and committed to the watch-house or restrained in some other suitable place till a complaint can be made and warrant issued in due form, upon which he may be arrested and tried, and, if found guilty of being intoxicated in the streets or highways, or of being intoxicated in his own house or any other building or place, and becoming quarrelsome and disturbing the public peace, or that of his own or any other family, he shall be

punished by imprisonment in the common jail not exceeding thirty days; but said judge or justice may remit any portion of said punishment, and order the prisoner discharged whenever he shall become satisfied that the objects of this law and the good of the public and the prisoner would be advanced thereby.

SEC. 50. No action shall be maintained upon any claim or demand, promissory note, or other security contracted or given for intoxicating liquors sold in violation of the provisions of this chapter, or for any such liquors purchased out of the State with intention to sell the same or any part thereof in violation of this chapter; but the provisions of this section shall not extend to negotiable paper in the hands of any holder for a valuable consideration and without notice of the illegality of the contract.

SEC. 51. No such liquors owned by any city, town, or plantation, or kept by any agent of any city, town, or plantation, as is provided by law, shall be protected against seizure and forfeiture, under the provisions hereof, by reason of such ownership, unless all the casks and vessels in which they are contained shall be at all times plainly and conspicuously marked with the name of such city, town, or plantation, and of its agent. When any such liquors shall be seized bearing such marks as are herein required to be upon liquors owned by cities, towns, or plantations, if such liquors are in fact not owned by any such city, town, or plantation, such false and fraudulent marking shall be conclusive evidence that the same are kept or deposited for unlawful sale, and render them liable to forfeiture under the provisions of this chapter. The liquors kept for sale by such agents shall not be adulterated or factitious, and shall not be protected from seizure and forfeiture by reason of being kept for sale by such agents, if so adulterated or made factitious and they have knowledge of the fact.

SEC. 52. No person authorized as aforesaid to sell intoxicating liquors shall sell such liquors to any minor without the direction in writing of his parent, master, or guardian, to any Indian, to any soldier in the army, to any drunkard, to any intoxicated person, or to any such persons as are described in the fourth section of the sixty-seventh chapter, as being liable to guardianship knowing them respectively to be of the condition herein prescribed, nor to any intemperate person of whose intemperate habits he has been notified by the relatives of such person, or by the aldermen, selectmen, or assessors, respectively, of any city, town, or plantation. And proof of notice so given by aldermen,

selectmen, or assessors, or by their authority, shall be conclusive of the fact of the intemperate habits of such person, in any prosecution or suit under this chapter ; and notice so given by the relatives of such person shall be presumptive evidence of such habits.

SEC. 53. It shall be the duty of the aldermen, selectmen, and assessors aforesaid, whenever they shall be informed by the relatives of any person that he is of intemperate habits, and shall be satisfied that such is the fact, forthwith to give notice thereof to all persons authorized to sell intoxicating liquors within their respective cities, towns, and plantations, and in such adjoining places as they may deem expedient.

SEC. 54. Any person authorized as aforesaid who shall violate any of the provisions of section twenty-two shall be punished, on conviction thereof, by a fine of twenty dollars for every such offence, and shall also be liable, notwithstanding such conviction and punishment, to a suit upon his bond given as aforesaid ; and it shall be the duty of the aldermen, selectmen, and assessors, respectively, of the city, town, or plantation to which such bond was given, to cause the same to be put in suit and prosecuted to judgment and satisfaction to the use of the city, town, or plantation. The court by which judgment shall be rendered upon any such bond, or upon any bond required to be given by the provisions of this chapter relating to spirituous liquors, shall have such chancery powers therein as the supreme judicial court now has in cases of forfeiture of penalties to the State. And whenever any such conviction shall be obtained or judgment recovered as aforesaid, all the authority of such person to sell intoxicating liquors shall be absolutely vacated ; and it shall be the duty of the aldermen, selectmen, and assessors, respectively, to revoke such authority whenever they shall be satisfied of any violation of the conditions of the same.

SEC. 55. Whenever an unlawful sale is alleged, and a delivery proved, it shall not be necessary to prove a payment, but such delivery shall be sufficient evidence of sale. A partner in business shall be liable for the unlawful keeping or selling of his copartner done in the copartnership business, or by any other person in any shop, store, or any other place of business, of such copartnership, with his knowledge or assent. A principal and his agent, clerk and servant, may be all included in the same *complaint and process*. The mayor or aldermen, selectmen or assessors, *may cause a suit to be commenced on any bond or recognizance*

given under the provisions of this chapter relating to spirituous liquors, in which this city, town, or plantation is interested, and the same shall be prosecuted to final judgment unless paid in full with costs. It shall also be the duty of the mayor and aldermen, selectmen, assessors, and constables, respectively, in every city, town, and plantation, to make complaint and to prosecute any violations of the said provisions of this chapter, and to promptly enforce the laws against drinking-houses. If any municipal officer of any city, town, or plantation, after being furnished with a written notice of a violation of any provisions of this chapter, signed by two persons competent to be witnesses in civil suits, and containing the names and residences of the witnesses to prove such offence, wilfully neglects or refuses to institute proceedings therefor, he shall be liable to a fine of not less than twenty nor more than fifty dollars, to be recovered by indictment. The oath required of any such officer to the complaint may be in substance that, from a written notice signed by two persons competent to be witnesses in civil suits, he believes the complaint signed by him to be true.

If any execution or other final process issued in any civil or criminal suit instituted under the said provisions of this chapter shall be placed in the hands of any proper officer to be by him executed, and he shall unreasonably neglect or refuse so to do, an action may be commenced against him by any voter in the county for such neglect, and prosecuted to final judgment, which shall be for the full amount of the judgment and interest on such execution; and if it be a process that requires him to take and commit an offender to prison, the damages shall not be less than fifty dollars nor more than five hundred dollars.

Selectmen of towns herein mentioned shall be construed to include assessors of plantations. The word town shall in all cases used herein be construed to include plantations.

In any suit, complaint, or indictment, or other proceeding against any person for a violation of any of the provisions of this chapter relating to spirituous liquors, other than for the first offence, it shall not be requisite to set forth particularly the record of a former conviction, but it shall not be sufficient to allege briefly that such person has been convicted of a violation of any particular provision or as a common seller, as the case may be, and such allegation in any criminal process, legally amendable in any stage of the proceedings before final judgment may be amended, without terms, and as a matter of right. Any process, civil

or criminal, legally amendable, may, in any stage of the proceedings, be amended in any matter of form, without costs, on motion at any time before final judgment.

SEC. 56. No person engaged in the unlawful traffic in intoxicating liquors shall be competent to sit upon any jury in any case arising under this chapter ; and when information shall be communicated to the court that any member of any panel is engaged in such traffic, or that he is believed to be so engaged, the court shall enquire of the juryman of whom such belief is entertained, and no answer which he shall make shall be used against him in any case arising under this chapter ; but if he shall answer falsely, he shall be incapable of serving on any jury in this State ; but he may decline to answer, in which case he shall be discharged by the court from all further attendance as a jurymen.

SEC. 57. The forms herein set forth, with such changes as will adapt them for use in cities, towns, and plantations, shall be deemed sufficient in law for all the cases arising under the foregoing provisions to which they purport to be adapted ; and the costs to be taxed and allowed for the libel shall be fifty cents; for entering the same, thirty cents ; for trying the same, one dollar : for monition, fifty cents; for posting notices and return, one dollar; order to restore or deliver, twenty-five cents; executing the order, fifty cents.

The following law in relation to the duties of Sheriffs, etc., was adopted February 29, 1872, with but few dissenting voices :

AN ACT RELATING TO THE DUTIES OF SHERIFFS AND COUNTY ATTORNEYS.

*Be it enacted, etc.*, as follows :

SEC. 1. It shall be the duty of sheriffs to obey all such orders and directions relating to the enforcement and execution of the laws of the State as they shall from time to time receive from the governor.

SEC. 2. It shall be the duty of sheriffs and their deputies diligently and faithfully to enquire into all violations of the laws of the State, within their respective counties, and to institute legal proceedings against violations or supposed violations of law, *and particularly the laws against the illegal sale of intoxicating liquors, and the keeping of drinking-houses and tippling-shops.*

gambling-houses or places, and houses of ill-fame, either by promptly entering a complaint before a magistrate competent to examine or try the offence charged, and execute such warrants as may be issued on such complaints, or by furnishing the county attorney promptly and without delay with the names of alleged offenders, and of the witnesses. For services under the provisions of this law, sheriffs and their deputies, acting under their directions, shall be entitled to the same per diem compensation as for attendance on the supreme judicial court, and the same fees for travel as for the service of warrants in criminal cases, together with such necessary incidental expenses as may be just and proper ; bills for which shall be audited by the county commissioners, and paid from the county treasury.

SEC. 3. County attorneys shall cause to be summoned promptly before the grand jury of their several counties all witnesses whose names have been furnished them by any sheriff or his deputies, as provided in Section 2 of this act, and shall faithfully direct enquiries before that body into violations of law, and shall prosecute persons indicted, and secure the prompt sentence of such as shall be convicted.

SEC. 4. Whenever the governor shall, after investigation, be satisfied that any sheriff or county attorney has wilfully refused or neglected to discharge the duties imposed upon each by this act, it shall be his duty to bring such fact to the attention of the Legislature at the earliest practical day.

[Approved February 29, 1872.]

The following is the full text of the amendment passed unanimously by the Legislature, and approved by the Governor February 9, 1877 :

**AN ACT TO AMEND CHAPTER 27 OF THE REVISED STATUTES RELATING  
TO DRINKING-HOUSES AND TIPPLING-SHOPS.**

*Be it enacted, etc., as follows :*

**SECTION 1.** Section 22 of chapter 27 of the Revised Statutes is hereby amended so as to read as follows :

"SEC. 22. No person shall be allowed at any time to sell, by himself, his clerk, servant, or agent, directly or indirectly, any intoxicating liquors, of whatever origin, except as hereinafter provided ; wine, ale, porter, strong beer, lager-beer, and all other malt liquors, and cider, when kept or deposited with intent to sell the same for *tippling purposes*, as well as all other distilled spirits, shall be considered intoxicating within the meaning of this chapter ; but this

enumeration shall not prevent any other pure or mixed liquors from being considered intoxicating."

SEC. 2. Section 23 of the same chapter is hereby amended so as to read as follows :

"SEC. 23. Any person who shall manufacture for sale any intoxicating liquor, except cider, shall be punished as provided in section 24 of this chapter."

SEC. 3. Section 24 of the same chapter is hereby amended so as to read as follows :

"SEC. 24. Any person who shall sell any intoxicating liquors manufactured by him in this State, except cider, shall be punished by imprisonment two months in the county jail, and by fine of one thousand dollars, and stand committed till paid."

SEC. 4. On every subsequent conviction after the first offence described in section 35 of the same chapter the person or persons found guilty shall pay a fine of one hundred dollars and cost of prosecution, and stand committed until the same be paid ; and in addition thereto, shall be imprisoned in the county jail three months.

SEC. 5. Section 45 of the same chapter is hereby amended so as to read as follows :

"SEC. 45. Every trial justice, recorder, clerk, and judge of a municipal or police court, and every county attorney, having knowledge of any previous conviction of any person accused of violating this chapter, in preparing complaints, warrants, or indictments, shall allege such previous conviction thereon ; and after an indictment in any such case is entered in court, no county attorney shall dismiss or fail to prosecute the same except by special order of said court. If any trial justice, recorder, clerk, or judge of a municipal or police court, or county attorney, neglects or refuses to allege such previous conviction, or if any county attorney shall fail to prosecute as provided in this section, he shall forfeit one hundred dollars in each case, to be recovered in an action of debt, to be brought by the attorney-general in behalf of the State."

SEC. 6. All acts or parts of acts inconsistent with this act are hereby repealed.

## NEW HAMPSHIRE.

NEW HAMPSHIRE has a prohibitory law, under which the traffic in alcoholic liquors is illegal, excepting by duly appointed but not licensed agents. Neither the State nor any of its municipalities derive revenue from the sale of liquors. Efforts for a State constabulary force for the better enforcement of the prohibitory law have been unsuccessful.

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## VERMONT.

VERMONT has a prohibitory law, passed in 1852, which has been improved by various amendments adopted since that time. It is the settled policy of the State, and strong efforts are being made to secure the passage of the "State Police Bill," in order to secure its better enforcement. The following is from the Civil Damage Act of 1869 :

"Whenever any person in a state of intoxication shall wilfully commit any injury upon the person or property of any other individual, any person, who, by himself, his clerk, or servant, shall have unlawfully sold or furnished any part of the liquor causing such intoxication, shall be liable to the party injured for all damage occasioned by the injury so done, to be recovered in the same form of action as such intoxicated person would be liable to, and both such parties may be prosecuted in the same action; and, in case of the death or disability of any person, either from the injury received as herein specified or in consequence of intoxication from the use of liquors unlawfully furnished as aforesaid, any person who shall be in any manner dependent on such injured person for means of support, or any party on whom such injured person may be dependent, may recover from the person unlawfully selling or furnishing such liquor as aforesaid all damage or loss sustained in consequence of such injury, in any court having jurisdiction in such cases; and coverture or infancy shall be no bar to proceedings for recovery in any case arising under this act."

The Legislature of 1876 enacted the following:

NO. 88.—AN ACT TO ABATE AND SUPPRESS NUISANCES.

*It is hereby enacted, etc.:*

SECTION 1. Every saloon, restaurant, grocery, cellar, shop, billiard-room, bar-room, and every drinking place or room used as a place of public resort, where spirituous or malt liquor or any kind of intoxicating drink is unlawfully sold, furnished, or given away, or kept for selling, furnishing, or giving away unlawfully, shall be held and regarded as a common nuisance, kept in violation of law.

SEC. 2. When, upon due trial, it shall be proved that any such liquor or intoxicating drink is kept for unlawful sale, furnishing, or giving away, or is unlawfully sold, furnished, or given away, in any such place of public resort as is named in the preceding section, the court having jurisdiction in the case shall adjudge such place to be a common nuisance, and the same shall be shut up and abated by the order of such court, in the manner and form hereinafter provided, and shall not be reopened by the person convicted as the keeper thereof until he shall file with such court a bond, with sufficient surety or sureties, payable to the treasurer of the State, in the sum of not less than three hundred dollars nor more than five hundred dollars, conditioned that he will not thereafter keep for unlawful sale, furnishing, or giving away, nor unlawfully sell, furnish, or give away, therein any such liquor or intoxicating drink as herein named. And if such person so convicted shall reopen or reoccupy such place before giving such bond, he shall be liable to a fine of ten dollars, payable to the State treasury, for each day in which he shall keep open such place before giving such bond, with costs of prosecution. And it shall be the duty of the State's attorney, whenever any bond provided for by this act shall be forfeited, to prosecute and recover the amount so forfeited on behalf of the State; and when such duty is neglected by the State's attorney for the county in which such forfeiture occurs, for six months after being notified of such forfeiture, any other person may institute proceedings for such recovery in an action of debt in the name of the State, and such person, upon recovery and the payment of such amount into the State treasury, shall be allowed one-half of the amount so recovered. And it shall be the duty of the grand jury of each county to enquire into and present to the county court all cases of violation of this act not otherwise proceeded against.

SEC. 3. Whenever any person is duly convicted of keeping and maintaining any such place or room used as a place of public resort, *in which any such spirituous or malt liquor or any kind of in-*

toxicating drink is unlawfully sold, furnished, or given away, or kept for unlawful sale, furnishing, or giving away, he shall be adjudged by the court before which he is so convicted to be guilty of keeping and maintaining a common nuisance, and upon any conviction of such offence he shall forfeit and pay into the State treasury a fine of not less than twenty dollars nor more than two hundred dollars, or he shall be liable to a fine of not exceeding twenty dollars and imprisonment in the county jail not less than one month nor more than three months, in the discretion of the court.

The bill then gives the forms necessary for the carrying out of the provision.

Another amendment authorizes the arrest of intoxicated persons and detention till sober, and that the persons so detained shall upon oath disclose where the liquor was obtained, and on refusal may be committed to jail.

## MASSACHUSETTS.

The following law was adopted in 1875, taking the place of the old prohibitory law:

### AN ACT TO REGULATE THE SALE OF INTOXICATING LIQUORS.

*Be it enacted by the Senate and House of Representatives, in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. No person shall sell, or expose, or keep for sale spirituous or intoxicating liquors, except as authorized in this act. *Provided, however,* that nothing herein contained shall apply to sales made by any person under any provision of law requiring him to sell personal property ; or to sales of cider and of native wines by the makers thereof, not to be drunk on their premises.

SEC. 2. Druggists and apothecaries may sell pure alcohol for medicinal, mechanical, or chemical purposes ; they may also sell liquors of any kind, not to be drunk on their premises, under a license of the fourth class hereinafter mentioned. *Provided, however,* that druggists shall not be subject to the second clause of section six of this act when the sale is made upon the prescription of a physician.

SEC. 3. Importers of liquor of foreign production imported under authority of the laws of the United States may own, possess, keep, or sell such liquor in the original casks or packages in which it was imported, and in quantities not less than those in which the laws of the United States require such liquors to be imported, and, when sold, such liquor shall be as pure and unadulterated as when imported.

SEC. 4. Licenses may be granted annually to persons applying for the same by the mayor and aldermen of cities or the selectmen of towns, and every license shall be signed by the mayor or the chairman of the selectmen, and by the clerk of the city or town by which it is issued, and shall be recorded in the office of such clerk, who shall be paid by the licensee one dollar for recording the same. It shall name the person licensed, shall set forth the nature of the license and the building in which the business is to be carried on, and shall continue in force until the first day of the May next ensuing, *unless sooner forfeited or rendered void.*

**SEC. 5.** The mayor and aldermen of any city, and the selectmen of any town, may at any time refuse to issue a license to any person whom they deem unfit to receive the same ; but nothing in this act shall be so construed as to compel said mayor and aldermen or selectmen to grant licenses.

**SEC. 6.** Each license shall be expressed to be subject to the following conditions:

*First.* That the provisions in regard to the nature of the license, and the building in which the business may be carried on under it, shall be strictly adhered to.

*Second.* That no sale of spirituous or intoxicating liquor shall be made between the hours of twelve at night and six in the morning, nor during any part of the Lord's day, except that if the licensee is also licensed as an innholder, he may supply such liquor to guests who have resorted to his house for food or lodging.

*Third.* That no liquor except such as is of good standard quality and free from adulteration shall be kept or sold on the premises described in the license.

*Fourth.* That no sale or delivery of liquor shall be made on the premises described in the license to a person known to be a drunkard, or to an intoxicated person, or to a minor.

*Fifth.* That there shall be no disorder, indecency, prostitution, lewdness, or illegal gaming on the premises described in the license, or on any premises connected therewith by any interior communication.

Each license of the second, third, and fifth classes shall be subject to the further condition that no spirituous or intoxicating liquors, except those the sale of which is allowed by the license, shall be kept on the premises described in the license. And each license of the first, second, and third classes shall be subject to the further condition that the licensee shall not keep a public bar, and shall hold a license as an innholder or common victualler. The mayor and aldermen of cities and selectmen of towns are hereby authorized to grant licenses to persons to be innholders and common victuallers.

*Sixth.* That the license, or a copy thereof, certified by the clerk of the city or town by which it was issued, shall be displayed on the premises, in a conspicuous position, where it can easily be read.

*Seventh.* It shall be further expressed in each license that it shall be subject to a forfeiture, as herein provided, for breach of any of its conditions; and that in case the licensee is convicted in any court of competent jurisdiction of having violated any of such conditions, his license shall thereupon become void.

**SEC. 7.** Licenses shall be of the following classes :

*First class.* To sell liquors of any kind, to be drunk on the premises.

*Second class.* To sell malt liquors, cider, and light wines containing not more than fifteen per centum of alcohol, to be drunk on the premises.

*Third class.* To sell malt liquors and cider, to be drunk on the premises.

*Fourth class.* To sell liquors of any kind, not to be drunk on the premises.

*Fifth class.* To sell malt liquors, cider, and light wines, containing not more than fifteen per centum of alcohol, not to be drunk on the premises.

SEC. 8. The fees for licenses shall be as follows :

For a license of the first class, not less than one hundred dollars nor more than one thousand dollars.

For a license of the second or third class, not less than fifty dollars nor more than two hundred and fifty.

For a license of the fourth class, not less than fifty dollars nor more than five hundred dollars. *Provided, however,* that a distiller shall pay not less than three hundred dollars nor more than five hundred dollars. *Provided, secondly,* that distillers distilling not over fifty barrels annually shall pay a license fee of fifty dollars.

For a license of the fifth class, not less than fifty dollars nor more than one hundred and fifty dollars. *Provided, however,* that a brewer shall pay not less than two hundred dollars nor more than four hundred dollars.

SEC. 9. No license shall be issued until the license fee has been paid to the treasurer of the city or town by which it is to be issued, and until he has received a satisfactory bond, payable to him as such treasurer, in the sum of one thousand dollars, signed by the licensee and sufficient surety or sureties, who shall be jointly and severally liable, and conditioned for the payment of all costs, damages, and fines incurred by violation of the provisions of this act. Separate suits may be brought on said bond by any person at his own expense. Such bond, after approval, shall be filed in the office of the city or town clerk, and may be sued in any court having jurisdiction under the provisions of this act, and a certified copy thereof shall be admissible in evidence, and shall have the same force and effect as the original bond would have, if offered in evidence. The bond to be taken in each case may be in the following form :

"KNOW ALL MEN BY THESE PRESENTS, That we, A B, of the city of (or town of) \_\_\_\_\_ and county of \_\_\_\_\_, as principal, and C D, of the city of (or town of) \_\_\_\_\_, and E F, of

the city of (or town of) , as sureties, are held and firmly bound unto the treasurer of the city of (or town of) in the sum of one thousand dollars, to which payment, well and truly to be made, we bind ourselves and our legal representatives."

" Signed with our seals this day of , A.D.  
187 .

" The condition of this obligation is such that whereas the above bounden A B has this day been licensed by license No. , by the mayor and aldermen of the city of (or the selectmen of the town of) , in the county of , now if the said A B shall well and truly comply with all the provisions of the act under which said license is issued, and also shall pay all damages which shall be recovered from him under and pursuant to the provisions of said act, then this bond to be void, otherwise of full force in the law.

" Executed in presence of "

SEC. 10. The treasurer of a city or town shall pay to the treasurer of the Commonwealth one-fourth of all moneys received by him for licenses within one month after he receives the same.

SEC. 11. The mayor and aldermen of a city, or the selectmen of a town, or any police officer or constable specially authorized by them, may at any time enter upon the premises of any person licensed to sell under this act, to ascertain the manner in which such person conducts his business, and to preserve order. And such police officers or constables may at any time take samples for analysis from any liquors kept on such premises, and the vessel or vessels containing such samples shall be sealed on the premises by the seal of the vender, and shall remain so sealed until presented to the assayer for analysis. The city or town shall pay for the samples so taken. *Provided*, such liquors are found to be of good quality, and free from adulteration.

SEC. 12. The mayor and aldermen or the selectmen of the city or town by which a license has been issued, after notice to the licensee and reasonable opportunity for him to be heard by them, or by a committee of their number, may declare his license forfeited upon proof satisfactory to them that he has violated, or permitted to be violated, any of the conditions thereof. The pendency of proceedings before any court or justice shall not suspend or interfere with the power herein given to decree a forfeiture.

The licensee shall be disqualified to receive a license for one year after the expiration of the term of the license so forfeited, and no license shall be issued to be exercised on the premises described in such forfeited license for the residue of the term thereof. *Provided*, the licensee is the owner of said premises.

SEC. 13. Any person convicted of a violation of any of the provisions of his license or of this act shall be punished by a fine not less than fifty nor more than five hundred dollars, or imprisonment not less than one nor more than six months, or by both such fine and imprisonment. Any licensed person so convicted shall, in addition to said penalties, forfeit his license, and shall be disqualified to hold a license for the period of one year after such conviction, and no license shall be exercised on the premises described in the forfeited license during the residue of the term thereof. *Provided*, the licensee is the owner of said premises. And said mayor and aldermen of cities and selectmen of towns shall be required to prosecute to final judgment all violations of this section.

SEC. 14. If a person in a state of intoxication commits an assault and battery, or injures property, whoever furnished him with any part of the liquor which occasioned his intoxication, if the same was furnished in violation of this act, shall be liable to the same action by the party injured as the person intoxicated would be liable to; and the party injured, or his or her legal representative, may bring either a joint action against the person intoxicated and the person who furnished the liquor, or a separate action against either.

SEC. 15. Whoever, by himself or his agent or servant, shall sell or give intoxicating liquor to any minor, or allows a minor to loiter upon the premises where such sales are made, shall forfeit one hundred dollars for each offence, to be recovered by the parent or guardian of such minor in an action of tort.

SEC. 16. The husband, wife, parent, child, guardian, or employer of any person who has or may hereafter have the habit of drinking spirituous or intoxicating liquor to excess, may give notice in writing, signed by him or her, to any person requesting him not to sell or deliver spirituous or intoxicating liquor to the person having such habit. If the person so notified at any time, within twelve months thereafter, sells or delivers any such liquor to the person having such habit, or permits such person to loiter on his premises, the person giving the notice may, in an action of tort, recover of the person notified such sum, not less than one hundred nor more than five hundred dollars, as may be assessed as damages. *Provided*, the employer giving said notice shall be injured in his person or property. A married woman may bring such action in her own name, and all damages recovered by her shall inure to her separate use. In case of the death of either party, the action and right of action shall survive to or against his executor or administrator.

SEC. 17. The delivery of intoxicating liquors in or from any building, booth, stand, or other place, except a private dwelling-house, or in or from any private dwelling-house, if any part thereof

or its dependencies is used as an inn, eating-house, or shop of any kind, or other place of common resort—such delivery in either case being to any person not a resident therein—shall be *prima facie* evidence that such delivery is a sale of intoxicating liquors.

SEC. 18. The terms intoxicating liquor, or liquors, in this act shall be construed to include ale, porter, strong beer, lager-beer, cider, and all wines, as well as distilled spirits.

SEC. 19. Municipal, district, and police courts and trial justices shall have jurisdiction concurrent with the superior court over violations of the provisions of this act.

SEC. 20. The powers and duties given to, and imposed upon, the mayor and aldermen of cities, by this act, may be exercised in any city by a board of license commissioners, if the city council of such city shall so determine; and such board shall consist of three inhabitants of said city, to be appointed by the mayor and confirmed by the city council thereof, and shall hold office until the first day of May next after their appointment, or until their successors are appointed and confirmed, and shall receive such compensation as the city council shall determine.

SEC. 21. The governor, with the advice and consent of the council, shall annually appoint and commission a competent person as an inspector and assayer of liquors. Such person shall, before receiving his commission, file in the office of the treasurer of the Commonwealth a bond to the Commonwealth in the penal sum of five thousand dollars, with two or more good and sufficient sureties, to be approved by the treasurer, for the faithful performance of the duties of his office. The said inspector and assayer shall receive an annual salary of twenty-five hundred dollars, payable quarterly, on the first days of January, April, July, and October.

The duties of said officer shall be to inspect and analyze all liquors sent to him by the mayor and aldermen of any city or the selectmen of any town, or by the license commissioners appointed under this act, and to return to such mayor and aldermen or selectmen, or commissioners, with all possible expedition, a written statement, signed by him, of the results of such inspection and analysis. Such statement shall be presumptive evidence of the composition and quality of the liquors to which it relates.

SEC. 22. Chapter four hundred and fifteen of the acts of the year eighteen hundred and sixty-nine, and all acts or parts of acts inconsistent herewith, are hereby repealed. *Provided*, that nothing herein contained shall affect any prosecution pending, or any penalty or forfeiture incurred before this act takes effect.

SEC. 23. This act shall take effect on the first day of May next. [Approved April 5, 1875.]

The following is a copy of the act to authorize the Seizure, Destruction, or Sale of Intoxicating Liquors exposed and kept for sale contrary to law:

*Be it enacted, etc., as follows:*

SECTION 1. If two persons, of full age and competent to testify, make complaint under oath or affirmation, before a justice of the peace or a police, municipal, or district court, that they have reason to believe, and do believe, that any spirituous or intoxicating liquor, described in the complaint, is kept or deposited by a person named in the complaint in a store, shop, warehouse, building, vehicle, steam-boat, vessel, or other place, and intended for sale contrary to law, such justice or court, upon its appearing that there is probable cause to believe said complaint to be true, shall issue a warrant of search to any sheriff, deputy-sheriff, city marshal, chief of police, deputy chief of police, deputy marshal, State detective, police officer or constable, commanding him to search the premises in which it is alleged such liquor is deposited, and to seize such liquor, with the vessels in which it is contained, and securely keep the same until final action is had thereon, and return the warrant with his doings thereon, as soon as may be, to the same or some other justice or court having jurisdiction in the place where such liquor is alleged to be kept or deposited.

SEC. 2. No warrant shall issue for the search of a dwelling-house, unless a tavern, store, grocery, eating-house, or place of common resort is kept therein ; and no warrant shall issue for the search of a dwelling-house, unless one of the complainants makes oath or affirmation that he has reason to believe, and does believe, that such liquor has been sold therein or taken therefrom for the purpose of being sold by the occupant, or by his consent or permission, contrary to law, within one month next before making such complaint, and is then kept therein for sale contrary to law by the person complained against. The complainant shall in his oath or affirmation state the facts and circumstances on which such belief is founded, and such allegations shall be recited in the complaint and warrant.

SEC. 3. In all cases the complainant shall particularly designate so as to identify the building, structure, and place to be searched, the liquors to be seized, the person by whom they are owned, kept or possessed, and intended for sale, and shall allege the intent of such person to sell the same contrary to law. The warrant shall be supported by the oath or affirmation of the complainants, and shall allege that probable cause has been shown for the issuing thereof, and the place to be searched, the liquors to be seized, and the per-

son believed to be the owner, possessor, or keeper of such liquors, intending to sell the same contrary to law, shall be set out therein by special designation and with the same particularity as in the complaint; and the offence both in the complaint and warrant shall be fully, plainly, and substantially described, and the complainants shall be summoned to appear as witnesses.

SEC. 4. The officer to whom the warrant is committed shall proceed to search the premises and seize the liquor described in the warrant, with the casks or other vessels in which it is contained; if they are found in or upon said premises, and shall convey the same to some place of security, where he shall keep the liquor and vessels until final action is had thereon.

SEC. 5. If, in the opinion of the justice or court before which the warrant is returned, the value of the liquor seized, with the vessels containing it, does not exceed fifty dollars, a written notice, under seal, and signed by the justice or by the justice or the clerk of said court, shall be issued within twenty-four hours after such seizure, commanding the person complained against as the keeper of the liquor seized, and all other persons claiming any interest therein, or in the casks or vessels containing the same, to appear before said justice or court, at a time and place therein named, to answer to said complaint, and show cause, if any they have, why such liquor, with the vessels containing it, should not be forfeited.

SEC. 6. The notice shall contain a description of the number and kind of vessels, the quantity and kind of liquor seized, as nearly as may be, and shall state when and where they were seized. It shall be served by any sheriff, deputy sheriff, constable, State detective, or police officer, upon the person charged with being the keeper thereof, by leaving an attested copy of the same with him personally or at his usual place of abode, if an inhabitant of this State, and by posting up an attested copy on the building in which the liquor was seized, if it was found in any building, otherwise in some public place in the city or town where the liquor was seized. The posting up of the notice, and the serving the same on the party complained of as keeper, shall not be less than fourteen days before the time appointed for the trial.

SEC. 7. If, at the time appointed for trial, said notice has not been duly served, or other sufficient cause appears, the trial may be postponed to some other day and place, and such further notice issued as shall supply any defect in the previous notice; and time and opportunity for trial and defence shall be given to persons interested.

SEC. 8. At the time and place designated in the notice, the person complained against, or any person claiming an interest in the

liquor and vessels seized, or any part thereof, may appear and make his claim verbally or in writing, and a record of his appearance and claim shall be made, and he shall be admitted as a party on the trial. Whether a claim as aforesaid is made or not, the justice or court shall proceed to try, hear, and determine the allegations of such complaint, and whether said liquor and vessels, or any part thereof, are forfeited. If it appears that the liquor, or any part thereof, was at the time of making the complaint owned or kept by the person alleged therein, for the purpose of being sold in violation of law, the court or justice shall render judgment that such and so much of the liquor so seized as was so unlawfully kept, and the vessels in which it is contained, be forfeited to the Commonwealth.

SEC. 9. Any liquor so forfeited shall, by the authority of the written order of the justice or court, be delivered to the chief of the State detective force. Said officer shall sell the same, and pay over the net proceeds to the treasurer of the Commonwealth.

SEC. 10. If it is not proved on the trial that all or part of the liquor seized was kept or deposited for sale contrary to law, the justice or court shall issue a written order to the officer having the same in custody, to return so much thereof as was not proved to be so kept or deposited, with the vessels in which it is contained, to the place as nearly as may be from which it is taken, or to deliver the same to the person entitled to receive it; which order the officer, after executing the same, shall return to the justice or court with his doings endorsed thereon.

SEC. 11. If no person appears and is admitted as a party as aforesaid, or if judgment is rendered in favor of all the claimants who appear, the cost of the proceedings shall be paid as in other criminal cases. If only one party appearing fails to sustain his claim, he shall pay all the costs except the expense of seizing and keeping the liquor, and an execution shall be issued against him therefor. If judgment is rendered against two or more claimants, of distinct interests in the liquor, the costs shall, according to the discretion of the justice or court, be apportioned among such parties, and executions shall be issued against them severally. If such execution is not forthwith paid, the defendant therein named shall be committed to the jail, and shall not be discharged therefrom until he has paid the same and the costs of commitment, or until he has been imprisoned thirty days.

SEC. 12. The person claiming any such liquors, whose claim is not allowed as aforesaid, and the person complained against, shall have the same right of appeal, and to the same court, as if he had been convicted of a crime; but before his appeal is allowed he shall recognize to the Commonwealth in the sum of two hundred dollars,

with good and sufficient security or securities, to prosecute his appeal at the court appealed to and to abide the sentence of the court thereon; and upon such appeal any question of fact shall be tried by a jury. On the judgment of the court after verdict, whether of forfeiture of the whole or any part of the liquor and vessels seized, or otherwise, similar proceedings shall be had as are directed in the four preceding sections.

SEC. 13. If, in the opinion of the justice or court before which a warrant is returnable under which any liquor has been seized, the value of the liquor seized, with the vessel containing it, exceeds fifty dollars, a notice shall be issued and served as directed in sections five and six, except that the same shall be made returnable to the term of the superior court to be held in the county next after the expiration of fourteen days from the time of issuing the notice. The court before which the notice is made returnable shall have jurisdiction of the case, and may proceed therein in the manner directed in sections seven, eight, nine, ten, and eleven, as nearly as may be, and with a jury, upon any issue of facts presented by the claimant or directed by the court.

SEC. 14. Any mayor, alderman, selectman, deputy sheriff, chief of police, deputy sheriff of police, city marshal, deputy or assistant marshal, police officer, State detective or constable, in his city or town, may without a warrant arrest any person whom he finds in the act of illegally selling or delivering intoxicating liquors, and seize the liquors, vessels, and implements of sale in the possession of said persons, and detain them in some place of safe keeping until warrants can be procured against said person and for the seizure of said liquor, vessels, and implements, under the provisions of this act. The several officers aforesaid shall enforce or cause to be enforced the penalties provided by law against every person guilty of any violation of any law in relation to the sale of intoxicating liquors, of which they can obtain reasonable proof. If any sheriff, deputy sheriff, chief of police, deputy chief of police, constable, police officer, or State detective, after being furnished with a written notice of any violation of the law in relation to the sale of intoxicating liquors, and the names of the witnesses, for two weeks neglects to institute proceedings thereon, any person who thereafter makes complaint shall be entitled to all fines imposed and collected for said violation.

SEC. 15. All intoxicating liquors kept for sale, and the implements and vessels actually used in selling and keeping the same, contrary to law, are declared to be common nuisances.

SEC. 16. Whenever any person shall be convicted of the illegal *keeping or sale of intoxicating liquors, the court or magistrate*

before which such conviction shall be had shall issue and cause to be served upon the owner of the building used for such illegal keeping or sale, if such owner reside within the jurisdiction of such court or magistrate, and is not the person so convicted, a written notice, which shall recite that the tenant of said building has been convicted as aforesaid, and a return of the same shall be made to the court or magistrate issuing it; which notice, so served, shall be deemed to be due and sufficient notice under the provisions of section nine of chapter eighty-seven of the General Statutes.

Sec. 17. The following forms may be used in prosecutions for the illegal keeping and sale of intoxicating liquors, and, if substantially followed, shall be deemed sufficient to fully and plainly, substantially and formally, describe the several offences in each of them set forth, and to authorize the lawful doings of the officers acting by virtue of the warrants issued in substantial conformity therewith; but this shall not be so construed as to prohibit the use of other suitable forms.

[Approved April 25, 1876.]

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## RHODE ISLAND.

RHODE ISLAND has a license law of forty-six sections, passed June 25, 1875.

Town councils of the several towns, and the boards of aldermen in the several cities, are empowered to grant or to refuse to grant annual licenses to sell liquor to such extent as they may think proper. The sale of intoxicating liquors is prohibited "on Sunday, or to any minor, or person of notoriously intemperate habits." A bond of \$1,000 is required, and other provision is made to prevent violations of the law. Licenses are to be posted in a conspicuous position in the room or place where the liquor is sold. There is a civil damage proviso, and payments for liquors unlawfully sold cannot be enforced.

An act passed March 14, 1876, makes it the duty of the license commissioners of the city of Providence to report annually on or before the 1st of February to the Legislature the number of licenses granted, to whom, the amount of money received therefor, "together with such other information as they may deem desirable or expedient."

## CONNECTICUT.

The following law was adopted in 1872, to take the place of the old prohibitory law:

### AN ACT IN ALTERATION OF AN ACT CONCERNING LICENSES AND SPIRITUOUS LIQUORS.

*Be it enacted by the Senate and House of Representatives in General Assembly convened:*

SECTION 1. The board of county commissioners of each county in this State shall, at any regular meeting, by an instrument in writing under their hands, license and authorize any suitable person or persons to sell spirituous and intoxicating liquors, ale, and lager-beer in the several towns in said county; provided that said license or licenses shall only be given to such person or persons as shall be recommended by a majority of the selectmen of the town where such business is to be carried on as suitable and fit therefor; and provided, further, that such person or persons, before receiving a license, shall file with the said board a bond to the treasurer of said county, in the sum of one thousand dollars, with good and sufficient surety or sureties, for the due observance of all laws that are or shall be made respecting taverns and spirituous liquors; and all licenses so granted shall be in force for one year and no more. Such license shall specify the town within which, and the particular building or place within such town where, such liquor may be sold, and shall not be deemed to authorize such sale in any other town, building, or place; and every person so licensed who shall make any such sale in any other town, building, or place than the one specified in such license shall be subject to all the penalties provided by law for unlicensed persons, and may be proceeded against, prosecuted, and punished as such; and any town may at any meeting duly warned and held for that purpose, by a major vote of the electors present at said meeting, instruct the selectmen of the town not to make any recommendation for the granting of licenses under this act; and, if any town shall instruct the selectmen thereof, as aforesaid, then said selectmen shall be prohibited from making any recommendations for the granting of licenses.

and any selectman who shall recommend the licensing of any person after a vote of the town instructing him to the contrary shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one hundred dollars, or be imprisoned in a common jail for a period not exceeding sixty days, or by such fine and imprisonment both.

SEC. 2. Said board of county commissioners, or the major part thereof, shall revoke any license so granted for any violation of this act. No license shall be granted, and any license if granted shall be void, unless the application thereof shall be in writing, signed by the applicant in person, and a copy lodged and kept on file with the town clerk of the town in which the privilege of selling liquors is sought, subject to public inspection at least two weeks.

SEC. 3. Any person so licensed shall pay to said board a sum not less than one hundred dollars and not more than five hundred dollars, as said commissioners shall determine for such license, and said board shall pay over the sum so received to the treasurer of the town in which the person so licensed to sell resides.

SEC. 4. Any person or persons who shall sell, without being so licensed, or after notice of the revocation of such license, any spirituous or intoxicating liquors, ale, or lager-beer, shall be punished by a fine of not less than fifty nor more than five hundred dollars, or by imprisonment not exceeding six months, or by such fine and imprisonment both.

SEC. 5. Any person or persons so licensed who shall sell to any minor any spirituous or intoxicating liquors, ale or lager-beer, shall be deemed guilty of a misdemeanor, and on conviction they shall be punished by a fine of not less than twenty nor more than fifty dollars, or by imprisonment not exceeding thirty days, or by both fine and imprisonment.

SEC. 6. Any person or persons so licensed who shall sell to any drunkard, knowing him or her to be such, or to any husband or wife, after notice from either said husband or wife not to sell to the other, or to any person in a state of intoxication, any spirituous or intoxicating liquor, ale, or lager-beer, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty nor more than fifty dollars, or by imprisonment in the county jail not exceeding sixty days, or by such fine and imprisonment both.

SEC. 7. The attorney for the State, in each of the counties of the State, and the grand jurors of the several towns, and the prosecuting officers of the cities of the State, shall, upon the complaint

of any person, verified by oath, file informations against any person or persons for the violation of this act.

SEC. 8. If any person shall, while in a state of intoxication, do or cause (in consequence thereof) any damage or injury to any other person, or to the property of another, then, in such case, whoever sold the liquor to such person, whereby the person doing or causing such injury became intoxicated, shall be liable to pay to the party injured just damages, to be recovered in an action on this statute; and, if the party selling such liquor is a licensed dealer under this act, said amount may be recovered from the surety or sureties on his or her bond, provided it does not exceed the sum of one thousand dollars.

SEC. 9. The bond to be taken on the issuing of each license may be in the following form:

KNOW ALL MEN BY THESE PRESENTS, That we A B, of as principal, and C D, of as surety, are held and firmly bound unto the treasurer of the and his successors in office, in the sum of one thousand dollars, to which payment, well and truly to be made, we bind ourselves, our heirs and assigns.

Signed with our hands and sealed with our seals this day of A.D.

The condition of this obligation is such that, whereas the above-bounden A B has this day been licensed by the board of county commissioners of the county of to sell spirituous and intoxicating liquors, ale, and lager-beer in the town of in said county, now, if the said A B shall comply with all the provisions of the act under which said license is issued, and also shall pay all damages which shall be recovered from him under and pursuant to the provisions of said act, then this bond to be void, otherwise of full force in the law.

SEC. 10. Every person who shall keep a house, store, shop, saloon, or other place in which it is reputed that spirituous or intoxicating liquors, ale, or lager-beer are kept for sale, without having a license therefor, according to the provisions of this act, shall be punished by a fine not exceeding twenty dollars, or by imprisonment in a common jail not exceeding thirty days, or by such fine and imprisonment both.

SEC. 11. All clerks, agents, bar-keepers, or employees employed in the keeping of any such place shall incur the same penalties and be proceeded against in the same manner as principals.

SEC. 12. Any person who shall receive a license from the board of county commissioners shall cause this written license to be suit-

ably and properly framed, and shall hang the same in some conspicuous place in the room where spirituous and intoxicating liquors, ale, and lager-beer are offered for sale, so that the same may be seen and read by any person who may visit said room.

SEC. 13. All acts or parts of acts, so far as they are inconsistent herewith, are hereby repealed.

SEC. 14. This act shall take effect from and after the 15th day of September, A.D. 1872.

The following act was adopted July, 1874:

#### CHAPTER CXV.

AN ACT in alteration of and in addition to an Act entitled "An Act in addition to An Act concerning Crimes and Punishments."

*Be it enacted by the Senate and House of Representatives in General Assembly convened:*

SECTION 1. No person shall sell or exchange, or offer or expose for sale or exchange, or own or keep with intent to sell or exchange, any spirituous or intoxicating liquors, ale, or lager-beer, unless he shall have previously obtained a license therefor in the manner hereinafter provided.

SEC. 2. Any county commissioner or other officer who shall neglect or refuse to perform any of the duties imposed upon him by this act, or the act to which this is in addition, shall pay a fine of one hundred dollars, one-half to the treasurer of the State of Connecticut, and the other half to the person who shall prosecute for the same to effect.

SEC. 3. The board of county commissioners of each county in this State shall, at any regular meeting, by an instrument in writing under their hands, license and authorize any suitable person or persons to sell or exchange spirituous and intoxicating liquors, ale, and lager-beer in the several towns in said county. *Provided*, that said license or licenses shall only be given to such person or persons as shall be recommended by a majority of the selectmen of the town where such business is to be carried on, as suitable and fit therefor: and *provided* further, that such person or persons, before receiving a license, shall file with the said board a bond, to the treasurer of said county, in the sum of one thousand dollars, with good and sufficient surety or sureties, for the due observance of all laws that are or shall be made respecting taverns and spirituous liquors, ale, and lager-beer, and all licenses so granted shall expire on the thirty-first day of October in each year. Such license shall specify the town *within which, and the particular building or place within such town,*

where such liquor may be sold, and shall not be deemed to authorize such sale in any other town, building, or place; and every person so licensed who shall make any such sale in any other town, building, or place than the one specified in such license, shall be subject to all the penalties provided by law for unlicensed persons, and may be proceeded against, prosecuted, and punished as such. And any town may, at its annual town-meeting in each year, determine by ballot, by a major vote of the electors present and voting at said meeting, whether the selectmen of the town shall make any recommendations for the granting of licenses under this act, and the polls for this vote shall be open during the same hours as for the other votes of said meeting. And it shall be lawful for any town to vote in manner herein otherwise provided either to issue licenses generally for the sale of all kinds of spirituous liquors, ale, lager-beer, etc., or to issue licenses whereby only those liquors enumerated in section four of this amendment shall be permitted to be sold; and if any town shall instruct the selectmen thereof not to make such recommendations, then the selectmen shall be prohibited from making any recommendations for the granting of licenses; and any selectmen who shall recommend the licensing of any person, after a vote of the town instructing them to the contrary, shall be guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding one hundred dollars, or be imprisoned in a common jail not exceeding sixty days, or by such fine and imprisonment both.

SEC. 4. The board of county commissioners of each county in this State may grant licenses under the provisions of this act, and the act to which this is in addition, for the sale of ale, lager-beer, and Rhine wine, upon the payment of the sum of fifty dollars.

SEC. 5. If any person licensed to sell ale, lager-beer, and Rhine wine only, shall keep, sell, or give away in the saloon, store, or room where such person is so licensed to sell ale, lager-beer, and Rhine wine only, any spirituous or intoxicating liquors, such person shall for such offence be subject to all the penalties provided by law for unlicensed persons, and may be proceeded against, prosecuted, and punished as such.

SEC. 6. Licenses granted under this act shall be transferable by consent of the county commissioners, upon the fulfilment by the transferee of similar conditions to those required by the original licensee.

SEC. 7. Whenever any licensee shall desire to remove his place of business from one building in the town to another in the same town, the county commissioners, upon the recommendation of the selectmen of such town, shall have power to grant him permission to do

so, if they deem it expedient ; and in all such cases shall endorse such permission in writing on his said license, which said license shall be effective thereafter to protect said licensee in the premises to which he shall so have removed.

SEC. 8. The county commissioners of each county shall appoint one or more persons residing in such county, as they may deem expedient, to be designated prosecuting agents, whose duty it shall be diligently to enquire into all violations of the laws relating to the sale of spirituous or intoxicating liquors, ale, or lager-beer therein, and who shall have and exercise in any town in said county the powers of grand jurors of said town or prosecuting officers of any city, in prosecutions for such violations, and shall prosecute therefor ; and in such prosecutions, tried in superior court, such agents shall render such aid and give such information as the State attorney may require, and shall also render monthly reports of their doings to the county commissioners of said county ; and for non-performance of duty or other cause shall be forthwith removed by said commissioners, and others appointed in their stead.

SEC. 9. Every prosecuting agent appointed under the provisions of the preceding section shall be paid ten dollars for each case commenced and prosecuted by him before a justice of the peace, city or police court, or before any superior court in any county in this State. *Provided*, that such prosecuting officer shall not receive said fee, unless the court that taxes the costs is of opinion that the prosecution was brought in good faith and upon probable cause, which said sum shall be in lieu of all other fees and allowance to said agent ; and the selectmen of the town in which the offence is committed for which the prosecution shall be brought, shall draw their order on the treasurer of such town, in favor of such agent, upon the certificate of such justice of the peace or clerk of the court, stating the name and title of the case, and of the person who acted as agent in the prosecution thereof.

SEC. 10. The payments authorized to be made under the next preceding section shall be taxed by such justice of the peace or city or police court in the bill of costs against accused, if they be found guilty ; and, when collected, shall be paid by said justice or clerk of such city or police court into the treasury of the town which shall have been required to pay the same to such prosecuting agent.

SEC. 11. Nothing in this act shall be construed to prevent the taking of license at any time during the year under the provisions hereof, with a proportionate deduction from the amount of the annual license fee, according to time, nor shall it affect any license already issued which does not expire until after the thirty-first day of October, A.D. 1874.

SEC. 12. No person so as aforesaid licensed to sell any spirituous and intoxicating liquors, ale, or lager-beer, shall sell, exchange, or give to any minor, or to any intoxicated person, or to any habitual drunkard, or to any father, mother, husband, wife, or child whose child, wife, husband, or parent respectively have, in the manner hereafter provided, notified him not to do so, any spirituous or intoxicating liquor, ale, or lager-beer, nor shall such person sell, exchange, or give to any one impure, spurious, or adulterated liquors, ale, or lager-beer.

SEC. 13. Whenever any person shall complain to any of the selectmen of any town that his or her father, mother, husband, wife, or child is addicted to the use of spirituous and intoxicating liquors, ale, or lager-beer, and shall request said selectmen, in writing, to notify the licensed dealers in said town not to sell, exchange, or give to such father, mother, husband, wife, or child any spirituous and intoxicating liquors, ale, or lager-beer, such selectmen shall forthwith notify, in writing, every licensed dealer in said town that such request has been made, and that the sale, exchange, or gift of spirituous and intoxicating liquors, ale, or lager-beer to such father, mother, husband, wife, or child is absolutely forbidden by law.

SEC. 14. Any person or persons who shall procure or furnish any spirituous or intoxicating liquors, ale, or lager-beer to any person or persons who have been refused the same in accordance with section thirteen of this act, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine of not less than twenty dollars nor more than fifty dollars, or by imprisonment in the county jail not exceeding sixty days, or by such fine and imprisonment both.

SEC. 15. No persons licensed under the preceding provisions of this act to sell spirituous or intoxicating liquors, ale, or lager-beer shall, between the hours of twelve o'clock at night and five o'clock on the following morning, keep open any place, apartment, store, or room where such spirituous or intoxicating liquors are sold or exchanged, or are kept or exposed for sale or exchange, under a penalty of not less than seven dollars nor more than fifteen dollars for each and every violation.

SEC. 16. Prosecutions for the violation of this act, and of the act to which this is in addition, shall be heard and determined by a justice of the peace, or city or police court, in cities where such court exists, subject to the right of the accused to appeal from the judgment of such justice or court, as in other criminal cases.

SEC. 17. The bond to be taken on the issuing of each license for the sale of ale, lager-beer, and Rhine wine only, may be in the form prescribed in section nine of the act to which this act is in addition, *“* *“* spirituous and intoxicating liquors. *“* *“*

SEC. 18. All acts and parts of acts inconsistent with this act, or the act to which this is in addition, are hereby repealed.

[Approved July 25, 1874.]

The following were passed in 1877:

CLOSING SALOONS ON ELECTION DAYS.

Mayors of cities, wardens of boroughs, and selectmen of towns may between sunrise and sunset on the day of any city, borough, town, or electors' meeting close any place therein where any intoxicating liquors or cider are ordinarily sold or reputed to be sold, to be drunk on the premises, and may order any such place to be kept closed between sunrise and sunset on the day of any such meeting; and every sheriff, deputy-sheriff, constable, bailiff, and police officer within their respective precincts shall enforce such orders and arrest any person disobeying them, who shall be fined not more than \$100 or imprisoned not more than thirty days, or both.

[Approved March 9, 1877.]

AN ACT CONCERNING COUNTY COMMISSIONERS.

If any person holding or who shall hereafter hold the office of county commissioners shall directly or indirectly, by himself, servant, or agent, engage in the sale of intoxicating liquors, he shall thereupon become disqualified to hold such office of county commissioner, and his appointment to such office shall become void and said office vacant. No person holding the office of county commissioner shall be or become a surety upon the bond of any person licensed to sell intoxicating liquor.

[Approved March 13, 1877.]

SEC. 30 OF AN ACT RELATING TO ELECTORS AND ELECTIONS.

Every person who, between the hours of five o'clock in the morning and six o'clock in the evening of the day of any electors, meeting, shall keep open any room, place, or enclosure, or any building or any structure of any kind or description, in which it is reputed that intoxicating liquors are exposed for sale and to be drunk on the premises, shall be fined forty dollars or imprisoned thirty days, or both. If any person licensed to sell spirituous or intoxicating liquors, ale, Rhine wine, or lager-beer shall violate the prohibition or provisions of this section, such violation shall work a forfeiture of his license and of all moneys that may have been paid for such license, and such person shall not thereafter for the space of one year be eligible to receive a license to sell any spirituous or intoxicating liquors, ale, Rhine wine, or lager-beer. All prosecutions for a violation of this section shall be determined by a justice of the peace or city or police court.

*[Passed over the Governor's veto by the House, March 20, by the Senate March 21, 1877.]*

## NEW YORK.

### AN ACT TO SUPPRESS INTEMPERANCE AND TO REGULATE THE SALE OF INTOXICATING LIQUORS.

PASSED APRIL 16, 1857, THREE-FIFTHS BEING PRESENT.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. There shall be appointed on the second Tuesday of May next, by the county judge and the two justices of the sessions, or a majority of them, of which the county judge shall be one, in each of the counties of this State (except the city and county of New York, wherein the chief justice of the superior court, and presiding judge of the court of common pleas, and the recorder of the city, or any two of them, shall appoint), at the place where the county courts are required to be held, three reputable freeholders, residents of the county, who shall be the commissioners of excise for their respective counties, and shall be known as the board of commissioners of excise. The said county judge and justices, and in the city of New York the chief justice of the superior court, the presiding judge of the court of common pleas, and the recorder of the city, shall meet at the time and place aforesaid, and divide the said commissioners into three classes by lot. The commissioner assigned to the first class shall hold his office until the first day of January, eighteen hundred and fifty-nine, the commissioner in the second class until the first day of January, eighteen hundred and sixty-one, and the commissioner in the third class until the first day of January, eighteen hundred and sixty-three, and one commissioner in every two years hereafter, as the term of office shall expire, shall be appointed on the second Tuesday of May in such year, at such place and by the authorities above provided, who shall hold his office for six years from the first day of January following his appointment. In case of a vacancy in the office of county judge, the appointment of commissioners shall be made by the justices of the sessions. In case of a vacancy by death or otherwise in the board of commissioners, such vacancy shall be filled by the said judge and justices, or by the said chief justice of the supe-

rior court, the presiding judge of the court of common pleas, and the recorder of the city of New York, for the unexpired term of such commissioner. Every commissioner, before he shall enter upon his duties, shall take and subscribe the oath prescribed by section one, article twelve of the constitution.

SEC. 2. The commissioners of excise shall meet in their respective counties at the place aforesaid on the third Tuesday of May in each year, and on such other days as a majority of the commissioners shall appoint, not exceeding ten days in any one year, and in the city of New York not exceeding fifty days, for the purpose of granting licenses as hereinafter prescribed. They shall have power to grant licenses to keepers of inns, taverns, or hotels, being residents of the town or city where such inn, tavern, or hotel is proposed to be kept, to sell strong and spirituous liquors and wines to be drunk in their houses respectively, and to store-keepers, being such residents, a license to sell such liquors and wines in quantities less than five gallons, but not to be drunk in their shops, houses, outhouses, yards, or gardens, and they shall have power to determine the sum to be paid for a license by each person applying, which sum shall be as follows: In towns and incorporated villages not less than thirty dollars nor more than one hundred dollars, and in cities not less than thirty dollars nor more than two hundred and fifty dollars; no license shall be granted to any person or firm to sell in more than one place.

SEC. 3. They shall keep a book of minutes of all their proceedings, in which shall be entered every resolution passed by them granting a license to any person, with the sum required to be paid, which minutes shall be verified by their signatures, and filed with the town clerk of the town for which such license shall be granted, and in the several cities of the State, with the city clerk, within eight days thereafter.

SEC. 4. All licenses shall be signed by the commissioners granting the same. They shall not be issued until the requirements fixed by the board shall have been complied with; when issued, they shall be in force, unless revoked, until ten days after the third Tuesday in May next succeeding the granting of such license, and in the city of New York until fifty days thereafter.

SEC. 5. Each of said boards of commissioners of excise shall have the right to appoint a clerk for the time they may be actually in session, in accordance with the provisions of this act, such *clerk to receive the same compensation as is allowed by this act*

to each of the commissioners. They shall keep a book of minutes of proceedings, on which shall be entered the names of all applicants for license, and they shall also enter on said book a list of all licenses granted, with the names of the parties to whom the same are granted, and the names of the securities to the bond required in each case. The said book of minutes shall be deposited in the office of the county clerk. No fee or reward shall be taken by any board of excise, or by any member thereof, or by any clerk thereof, for any license to keep an inn, tavern, or hotel, or to sell strong or spirituous liquors, or for any service required of such board, nor shall any compensation be retained by any such board, or by any member thereof, or by any clerk thereof, out of the excise money, but the whole amount thereof shall be paid over to the county treasurers for the use of the poor in the several counties; but the persons composing such board of excise shall be entitled each to receive the sum of three dollars per day for services actually performed, to be allowed and paid in like manner as other county charges, and no other or greater compensation shall be allowed. The expenses of procuring necessary books for minutes and necessary blanks, when actually incurred, shall be audited and paid in like manner as other county charges.

Sec. 6. License shall not be granted to any person to sell strong and spirituous liquors and wines to be drunk on the premises of the persons licensed, unless such person proposes to keep an inn, tavern, or hotel; nor unless the commissioners are satisfied that the applicant is of good moral character, that he has sufficient ability to keep an inn, tavern, or hotel, and the necessary accommodations to entertain travellers, and that an inn, tavern, or hotel is required for the actual accommodation of travellers at the place where such applicant resides or proposes to keep the same; all which shall be expressly stated in such license; and no such license shall be granted except on the petition of not less than twenty respectable freeholders of this State residing in the election district where such inn, tavern, or hotel is proposed to be kept, by them duly signed and verified by the oath of a subscribing witness, and not then unless in the opinion of the commissioners such inn, tavern, or hotel is necessary or proper, and not more than one license shall be granted on the memorial of the same petitioners or any of them. All petitions upon which such licenses *shall be granted* shall be filed with the county clerk *within eight days*. And in case the commissioners shall grant

any license contrary to the provisions of this act, they shall be deemed guilty of a misdemeanor.

SEC. 7. Nor shall such license to keep an inn, tavern, or hotel be granted until the applicant shall have executed and delivered to the board of commissioners of excise herein provided a bond to the people of this State, in the penal sum of two hundred and fifty dollars, with sufficient sureties who shall duly justify in the sum of five hundred dollars, to be approved by the board of commissioners, with a condition that such applicant, during the time that he shall keep any inn, tavern, or hotel, will not suffer it to be disorderly; or suffer any gambling, or keep a gambling-table of any description, within the inn, tavern, or hotel so kept by him, or in any outhouse, yard, or garden belonging thereto.

SEC. 8. Every keeper of an inn, tavern or hotel, in any of the towns or villages of this State, shall keep in his house at least three spare beds for his guests, with good and sufficient bedding, and shall provide and keep good and sufficient stabling, and pro-vender of hay in the winter, and hay or pasturage in the summer, and grain for four horses or other cattle more than his own stock, for the accommodation of travellers; and every keeper of an inn, tavern, or hotel in the cities of this State shall keep at least three spare beds and the necessary bedding for the accommodation of travellers. For every neglect or default in having either of the articles herein required, such keeper shall forfeit ten dollars, to be recovered by the overseers of the poor for the use of the poor.

SEC. 9. Every inn, tavern, or hotel keeper licensed under the provisions of this act shall, within thirty days after obtaining his license, put up a proper sign on or adjacent to the front of his house, with his name thereon, indicating that he keeps an inn, tavern, or hotel, and he shall keep up such sign during the time that he keeps an inn, tavern, or hotel. For every month's neglect to keep up such sign he shall forfeit ten dollars.

SEC. 10. No inn, tavern, or hotel keeper who shall trust any person other than those who may be lodgers in his house, for any sort of strong or spirituous liquors or wines, shall be capable of recovering the same by any suit. All securities given for such debts shall be void, and the inn, tavern, or hotel keeper taking such securities, with intent to evade this provision, shall forfeit double the sum intended to be secured thereby.

SEC. 11. In all licenses that may be granted (excepting to inn, tavern, or hotel keepers) to sell strong or spirituous liquors or wines, in quantities less than five gallons, there shall be inserted

an express declaration that such license shall not be deemed to authorize the sale of any strong or spirituous liquor, or wine, to be drunk in the house or shop of the person receiving such license, or in any outhouse, yard, or garden appertaining thereto or connected therewith.

SEC. 12. Such license shall not be granted unless the commissioners are satisfied that the applicant is of good moral character, nor until such applicant shall have executed a bond to the people of this State in the penal sum of five hundred dollars, with sufficient sureties who shall duly justify in the sum of one thousand dollars, to be approved by the commissioners, and to be delivered to the commissioners, conditioned that during the term for which his license shall be granted he will not suffer his place of business to become disorderly; that he will not sell, or suffer to be sold, any strong or spirituous liquors or wines to be drunk in his shop or house, or in any outhouse, yard, or garden appertaining thereto; and that he will not suffer any such liquor, sold by virtue of such license, to be drunk in his shop or house, or in any outhouse, yard, or garden belonging thereto; and whenever any person is seen to drink in such shop or house, outhouse, yard, or garden belonging thereto, any spirituous liquors or wines forbidden to be drunk therein, it shall be *prima facie* evidence that such spirituous liquors or wines were sold by the occupant of such premises or his agent with the intent that the same should be drunk therein. On any trial for the offence last aforesaid, such occupant or agent may be allowed to testify respecting such sales.

SEC. 13. Whoever shall sell any strong or spirituous liquors or wines in quantities less than five gallons at a time, without having a license therefor, granted as herein provided, shall forfeit fifty dollars for each offence.

SEC. 14. Whoever shall sell any strong or spirituous liquors or wines to be drunk in his house or shop, or any outhouse, yard, or garden appertaining thereto, or shall suffer or permit any such liquors or wines sold by him, or under his direction or authority, to be drunk in his house or shop, or in any outhouse, yard, or garden thereto belonging, without having obtained a license therefor as an inn, tavern, or hotel keeper, shall forfeit fifty dollars for each offence.

SEC. 15. No inn, tavern, or hotel keeper, or any other person licensed to sell any strong or spirituous liquors or wines, shall sell or give away any such liquors or wines to any Indian or apprentice, knowing or having reason to believe him to be such, without

the consent of his master or mistress, nor to any minor under the age of eighteen years, without the consent of his father, or mother, or guardian. Whoever shall offend against either of these provisions shall forfeit ten dollars, to be recovered by the master of such apprentice or servant, or by the parents or guardian of such minor; and any person who shall sell or give away any strong or spirituous liquor to any Indian in this State shall be deemed guilty of a misdemeanor, and on conviction shall be liable to a fine of twenty-five dollars for each and every offence.

SEC. 16. It shall be the duty of every sheriff, undersheriff, deputy sheriff, constable, marshal, policeman, or officer of police to arrest all persons found actually engaged in the commission of any offence in violation of this act, and forthwith to carry such person before any magistrate of the same city or town, to be dealt with according to the provisions of this act; and it shall be the duty of such magistrate, on sufficient proof that such offence has been committed, unless such person shall elect to be tried before such magistrate, to require a bond to be executed by such offender in the penal sum of one hundred dollars, with sureties who shall justify in double the amount severally, conditioned that such offender will appear and answer the charge at the next term of the court of oyer and terminer or sessions to be held in said county, and abide the order and judgment of the court thereon, or to commit such offender to the county jail until such judgment of said court, or until he be discharged according to law. And it shall be the duty of the magistrate to entertain any complaint of a violation of this act, made by any person under oath, and forthwith to issue a warrant and cause such offender to be brought before him, to comply with the provisions of this section; and such magistrate shall, within ten days, cause such bond, together with all papers and affidavits, with a list of the persons and residences of the complainants and witnesses examined before him, to be delivered to the district attorney of the county, whose duty it shall be forthwith to prosecute the same.

SEC. 17. It shall be the duty of every such officer, whenever he shall find any person intoxicated in any public place, to apprehend such person and take him before some magistrate of the same city or town; and, if such magistrate shall, after due examination, deem him too much intoxicated to be examined, or to answer on oath correctly, he shall direct said officer to keep him in some jail, lock-up, or some other safe and convenient place *1 he shall become sober, and thereupon forthwith bring him*

before said magistrate ; and, whenever any person shall be brought before any magistrate, as provided in this section, it shall be the duty of such magistrate to administer to such person an oath or affirmation, and examine him as to the cause of such intoxication, and to ascertain the person or persons who sold or gave the liquor to such person ; such intoxication being hereby declared to be an offence against the provisions of this act, punishable, upon conviction, by a fine of ten dollars and costs at the same rate as in courts of special sessions, and imprisonment in the county jail, work-house, or penitentiary until paid, not, however, to exceed ten days. It shall be the duty of such officers to arrest, or cause to be arrested, all such persons when so intoxicated, and of the magistrate to entertain such complaints and make such examination, under the penalty of fifty dollars, with full costs of suit, for any neglect to comply with the provisions of this section.

SEC. 18. Whoever shall sell or give any strong or spirituous liquors or wines, or shall suffer any such liquors or wines to be sold or given away under his direction or authority, to any intoxicated person, shall forfeit not less than ten nor more than twenty-five dollars for each offence.

SEC. 19. It shall be the duty of magistrates and overseers of the poor in any town or city, on complaint and satisfactory proof by a wife that her husband is an habitual drinker of intoxicating liquors, to issue written notices to all dealers in intoxicating liquors against whom such complaint is made, forbidding the sale or giving of such liquor to such husband for the term of six months from the date of the notice, under a penalty of fifty dollars, with costs, for each and every sale or giving of such liquor after such notice shall have been given ; to be sued for in her own name and for her own use. It shall be the duty of such magistrates and overseers of the poor to forbid the sale in like manner in all cases when a husband shall make like satisfactory proof concerning the wife, and all the provisions of this section shall apply the same in either case. It shall be the duty of magistrates and overseers of the poor, when like proof is made by a parent concerning a child who is a minor under the age of twenty-one years, or by a child concerning a parent, to forbid the sale in like manner ; and all the provisions of this act shall apply as in other cases named above.

SEC. 20. *It shall not be lawful, under the provisions of this act, to sell intoxicating liquors to any person guilty of habitual*

drunkenness, nor to any person against whom the seller may have been notified by parent, guardian, husband, or wife from selling intoxicating liquors, and every party so selling or retailing intoxicating liquors shall, on proof thereof, before any court of competent jurisdiction, be deprived of his license to sell, and shall not be allowed a renewal of said license, and in addition, on conviction, shall be punished by a fine of not less than twenty dollars nor more than fifty dollars for each and every violation of the provisions herein set forth. If any inn, tavern, or hotel keeper, or any other person or persons whatsoever, knowingly (outside of any poor-house) shall sell or give to any pauper or inmate of any poor-house or almshouse strong or spirituous liquors or wines, such person or persons so offending shall be fined twenty-five dollars, and be guilty of a misdemeanor, and on conviction shall be imprisoned not more than sixty days.

SEC. 21. No inn, tavern, or hotel keeper, or person licensed to sell liquors, shall sell or give away any intoxicating liquors or wines on Sunday, or upon any day on which a general or special election or town meeting shall be held, and within one quarter of a mile from the place where such general or special election or town meeting shall be held in any of the cities, villages, or towns of this State, to any person whatever, as a beverage. In case the election or town meetings shall not be general throughout the State, the provisions of this section in such case shall only apply to the city, county, village, or towns in which such election or town meeting shall be held. Whoever shall offend against the provisions of this section shall be guilty of a misdemeanor, and on conviction shall be imprisoned in the county jail, work-house, or penitentiary not more than twenty days.

SEC. 22. The penalties imposed by this act, except the penalties provided for by sections eight, fifteen, and nineteen, shall be sued for and recovered in the name of the board of commissioners of excise, and paid over to the treasurer of the county for the support of the poor of the county.

SEC. 23. Every bond taken pursuant to the provisions of this act shall, within ten days after the execution of the same, be filed in the office of the clerk of the town or village in which the license shall be granted, and, in cities, in the city clerk's office.

SEC. 24. Whenever a breach of the condition of such bond, given upon the granting of any license, shall happen, it shall be the duty of the commissioners of excise, the supervisor of the town, *mayor of the city*, or trustees of the village in which the

person who shall incur the penalty shall reside to prosecute the same and recover the penalty therefor.

SEC. 25. Whenever any conviction or judgment shall be obtained against any person licensed to sell strong or spirituous liquors or wines, for any violation of the provisions of this act, either in a suit for a penalty, or in a suit upon a bond given by such person, it shall be the duty of the justice or court before whom the same shall be had to transmit to the next court of sessions of the county a statement of such conviction or judgment, and the offence for which it was obtained.

SEC. 26. The said court shall cause the person or persons against whom such conviction or judgment was obtained to be notified to appear on such day as the court shall appoint, to show cause why any such license that may have been granted to him or them should not be revoked. At the day appointed, and on such other days as the court shall appoint, it shall proceed to enquire into the circumstances, and shall revoke the license granted to the person or persons violating the provisions of this act.

SEC. 27. The person whose license shall be revoked shall be incapable of receiving any such license to sell strong or spirituous liquors or wines for the space of three years from the time of such revocation.

SEC. 28. Any person who shall sell any strong or spirituous liquors or wines to any of the individuals to whom it is declared by this act to be unlawful to make such sale shall be liable for all damages which may be sustained in consequence of such sale, and the parties so offending may be sued in any of the courts of this State by any individual sustaining such injuries, or by the overseers of the poor of the town where the injured party may reside, and the sum recovered shall be for the benefit of the party injured.

SEC. 29. It shall be the duty of courts to instruct grand jurors to enquire into all offences against the provisions of this act, and to present all offenders under this act, and also all persons who may be charged with adulterating imported or other intoxicating liquors with poisonous or deleterious drugs or mixtures, or selling the same, or with knowingly importing or selling intoxicating liquors or wines adulterated with poisonous or deleterious mixtures; which offences are hereby declared to be misdemeanors, to be punished by imprisonment in the penitentiary, work-house, or jail for a period of three months, and by a fine of three hundred dollars.

SEC. 30. In case the parties or persons whose duty it is, by the provisions of this act, to prosecute shall neglect to prosecute for any penalty provided by this act, for the period of ten days after complaint to them that any provision of this act has been violated, accompanied with reasonable proof of the same, any other person may prosecute therefor in the name of the board of commissioners of excise.

SEC. 31. All incorporated companies and persons in this State engaged in conveying passengers, including especially all railroad, steamboat, and ferry companies, and all kinds of corporations conveying for hire persons or property, shall be and hereby are required to refuse employment to all persons who, on good and sufficient proof, shall be shown to indulge in the intemperate use of intoxicating drinks, and any such company which shall retain in its employ any person or persons who shall on competent proof be shown to be intoxicated at any period whilst in the active service of any company or person, either as engineer, conductor, fireman, switch-tender, commander, pilot, mate, or foreman, or be in any way connected with the moving power or management, or whose duty, if neglected, would diminish the safety and security of life, limb, or property entrusted thereto, said company or corporation shall be liable to pay a sum of not less than fifty nor more than one hundred dollars to the county treasurer in the county where the offence may be committed and proved before any court of competent jurisdiction.

SEC. 32. In any judgment rendered or recovered on any bond to be given under this act, or for any penalty incurred under this act, the person or persons against whom such judgment shall be rendered shall not be entitled, under any execution issued on such judgment, to the liberties of the jail.

SEC. 33. Title nine of chapter twenty, of the first part of the Revised Statutes, and the act entitled "An Act for the prevention of intemperance, pauperism, and crime," passed April ninth, eighteen hundred and fifty-five, and all other acts inconsistent with the provisions of this act, are hereby repealed.

SEC. 34. This act shall take effect immediately.

## CHAP. 856.

**AN ACT TO AMEND AN ACT ENTITLED "AN ACT TO SUPPRESS INTEMPERANCE, AND TO REGULATE THE SALE OF INTOXICATING LIQUORS," PASSED APRIL SIXTEENTH, EIGHTEEN HUNDRED AND FIFTY-SEVEN. PASSED MAY 11, 1869; THREE-FIFTHS BEING PRESENT.**

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section sixteen of the "Act to suppress intemperance and to regulate the sale of intoxicating liquors," passed April sixteenth, eighteen hundred and fifty-seven, is hereby amended so as to read as follows:

SEC. 16. It shall be the duty of every sheriff, under-sheriff, deputy-sheriff, constable, marshal, policeman, or officer of police, to arrest all persons actually engaged in the commission of any offence in violation of this act, and forthwith to carry such person before any magistrate of the same city or town, to be dealt with according to the provisions of this act; and it shall be the duty of such magistrate, on sufficient proof that such offence has been committed, unless such person shall elect to be tried before such magistrate, and unless the offence charged be intoxication in any public place, to require a bond to be executed by such offender in the penal sum of one hundred dollars, with sufficient sureties, conditioned that such offender will appear and answer the charge at the next court of oyer and terminer, or sessions to be held in said county, and abide the order and judgment of the court therein, or to commit such offender to the county jail until such judgment of said court, or until he be discharged according to law.

And it shall be the duty of the magistrate to entertain any complaint of a violation of this act, made by any person under oath, and forthwith to issue a warrant, and cause such offender to be brought before him, to comply with the provisions of this section; and such magistrate shall, within ten days, cause such bond, together with all papers and affidavits, with a list of the persons and residences of the complainants and witnesses examined before him, to be delivered to the district attorney of the county, whose duty it shall be forthwith to prosecute the same.

SEC. 2. Section seventeen of the said act is hereby amended so as to read as follows:

SEC. 17. It shall be the duty of every such officer, whenever he shall find any person intoxicated in any public place, to apprehend such person, and take him before some magistrate of the same city or town, and, if such magistrate shall, after due examination, deem him too much intoxicated to be examined or to answer an oath correctly, he shall direct said officer to keep him in some jail, lock-up, or other safe and convenient place until he shall become sober, and thereupon forthwith to bring him before said magistrate, whose duty it shall then be forthwith to try him for such offence; and such person, when thus charged with intoxication in any public place, shall not be allowed his election to give a bond, as provided for in section sixteen of this act, for his appearance before the next court of oyer and terminer or sessions; and, upon his conviction by the magistrate of such offence, such person shall be fined not less than three nor more than ten dollars, in the discretion of the magistrate trying him, and costs at the same rate as in courts of special sessions, and imprisonment in the county jail, work-house, or penitentiary until paid, not, however, less than ten days nor to exceed six months; the offence of intoxication in any public place being hereby declared an offence against the provisions of this act, and punishable as above provided.

It shall be the duties of such officer to arrest, or cause to be arrested, all such persons when so intoxicated, and of the magistrate to entertain such complaints and make such examination, under the penalty of fifty dollars, with full costs of suit, for any neglect to comply with the provisions of this section.

SEC. 3. Nothing in this act contained shall apply to the Metropolitan Police District.

SEC. 4 All the provisions of this act as amended shall be held to apply to the sale of ale or beer, except so much thereof as forbids the granting of license to any person, except to such persons as propose to keep an inn, tavern, or hotel; and the Commissioners of Excise may, in their discretion, grant license for the sale of ale or beer, for a sum not less than ten dollars, to other than those who propose to keep an inn, tavern, or hotel; and the provisions of this act shall extend to all portions of the State, except the Metropolitan Police District.

SEC. 5. This act shall take place immediately.

## CHAP. 175.

**AN ACT REGULATING THE SALE OF INTOXICATING LIQUORS. PASSED  
APRIL 11, 1870; THREE-FIFTHS BEING PRESENT.**

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

**SECTION 1.** There shall be a board of commissioners of excise in each of the cities, incorporated villages, and towns of this State. Such boards in cities shall be composed of three members, who shall be appointed as hereinafter provided. In incorporated villages, they shall consist of three members of the board of trustees, one of whom shall be president, to be annually designated by such board of trustees; and in towns, they shall consist of the supervisors and justices of the peace thereof, for the time being respectively. Any three members shall be competent to execute the powers vested in any town board, and, in case the office of supervisor be vacant or there be not two justices in the town, then the town clerk shall act in their places respectively.

**SEC. 2.** The mayor of each of the cities, except in the cities of New York and Brooklyn, shall appoint the commissioners of excise in their respective cities within ten days after the passage of this act; but in the cities of New York and Brooklyn the mayor shall nominate three good and responsible citizens to the board of aldermen of such cities respectively, who shall confirm or reject such nominations. In case of the rejection of such nominees, or any of them, the mayor shall nominate other persons as aforesaid, and shall continue so to nominate until the nominations shall be confirmed. The present commissioners of excise for the metropolitan district, and the commissioners for the counties, shall continue to exercise the duties of the office until such appointments, or some one of them, shall be appointed in such cities respectively, as herein provided. Any one or more of the commissioners so appointed shall have power to act as a board of excise for the city in which he shall be appointed, until the others shall be duly appointed. Commissioners of excise in cities shall hold their offices for three years, and until others shall be appointed in their places, and shall receive a salary not to exceed twenty-five hundred dollars a year each, to be fixed by the mayor and common council of their respective cities, and shall be paid as other city officers are paid. *On the first Monday of April in every third year hereafter, the*

mayor and board of aldermen shall proceed to appoint, in the manner above described, persons qualified as aforesaid to be such commissioners of excise in their respective cities for the next three years, commencing on the first day of May in that year, and shall, from time to time, as often as vacancies shall occur, appoint persons qualified as aforesaid to fill the unexpired term of any commissioners who shall die, resign, remove from the city, or be removed from office. Such commissioners of excise in cities shall be removed for any neglect or malfeasance in office, in the same manner as provided by law for the removal of sheriffs.

SEC. 3. The commissioners of excise shall meet in their respective cities, villages, and towns on the first Monday of May in each year, and on such other days as a majority of the commissioners shall appoint, not exceeding once each month in any year in any town or village, for the purpose of granting licenses as provided by law. In cities, they shall meet on the first Monday of each month, and as often as they shall deem necessary. All such licenses shall expire at the end of one year from the time they shall be granted.

SEC. 4. The board of excise in cities, towns, and villages shall have power to grant licenses to any person or persons of good moral character, who shall be approved by them, permitting him or them to sell and dispose of, at any one named place within such city, town, or village, strong and spirituous liquors, wines, ale, and beer, in quantities less than five gallons at a time, upon receiving a license fee, to be fixed in their discretion, and which shall not be less than thirty nor more than one hundred and fifty dollars. Such licenses shall only be granted on written application to the said board, signed by the applicant or applicants, specifying the place for which license is asked, and the name or names of the applicant or applicants, and of every person interested or to be interested in the business to authorize which the license shall be used. Persons not licensed may keep, and, in quantities not less than five gallons at a time, sell and dispose of, strong and spirituous liquors, wines, ale, and beer, provided that no part thereof shall be drunk or used in the building, garden, or enclosure communicating with, or in any public street or place contiguous to, the building in which the same be so kept, disposed of, or sold.

SEC. 5. Licenses granted, as in this act provided, shall not authorize any person or persons to expose for sale, or sell, give away, or dispose of any strong or spirituous liquors, wines, ale, or beer, on any <sup>day</sup> between the hours of one and five o'clock in the

morning; and all places licensed as aforesaid shall be closed and kept closed between the hours aforesaid.

SEC. 6. The act entitled "An Act to regulate the sale of intoxicating liquors within the metropolitan police district of the State of New York," passed April fourteenth, eighteen hundred and sixty-six, is hereby repealed, and the provisions of the act passed April sixteenth, eighteen hundred and fifty-seven, except where the same are inconsistent or in conflict with the provisions of this act, shall be taken and construed as a part of this act, and be and remain in full force and effect throughout the whole of this State.

SEC. 7. In no town or village shall the commissioners of excise, created by this act, appoint a clerk of the board of excise. The pay of commissioners of excise in towns or villages shall be three dollars per diem. The moneys arising from licenses in any town or village shall be deposited with the county treasurer, within thirty days after receiving the same, to be expended under the direction of the board of supervisors at their next annual meeting, for the support of the poor of such town. Moneys arising from licenses in cities shall be paid into the treasuries of such cities respectively. The book of minutes kept by the commissioners of excise in any town or village, except when in use by such commissioners, shall be deposited in the clerk's office of such town or village. The expenses of procuring necessary books for minutes, and necessary blanks, in any town or village, when actually incurred, shall be audited and paid in like manner as other town or village charges.

SEC. 8. The provisions of this act as to the appointment of commissioners of excise in each of the cities of this State, their tenure of office, the supplying of vacancies, and their removal from office, shall not extend to the territory included in the Niagara frontier police district until the first day of January, in the year one thousand eight hundred and seventy-two. And at all times hereafter up to the last-mentioned day the board of police commissioners of the said police district shall continue to be the board of commissioners of excise in and for said district, and the territory embraced therein, as now provided by law, subject to the provisions of this act; and up to the time aforesaid all fees for licenses which shall be issued by the said board, and all fines and penalties herein provided for, shall be received by said board of police commissioners of said Niagara frontier police district, and shall be paid into the Niagara police fund, for the use and benefit thereof, ~~as now provided by law.~~

SEC. 9. This act shall take effect immediately.

## AMENDMENTS TO THE LIQUOR LAWS OF NEW YORK.

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### CHAP. 549.

AN ACT TO AMEND AN ACT ENTITLED "AN ACT REGULATING THE SALE OF INTOXICATING LIQUORS," PASSED APRIL ELEVENTH, EIGHTEEN HUNDRED AND SEVENTY, AND THE ACT ENTITLED "AN ACT TO SUPPRESS INTEMPERANCE, AND TO REGULATE THE SALE OF INTOXICATING LIQUORS," PASSED APRIL SIXTEENTH, EIGHTEEN HUNDRED AND FIFTY-SEVEN. PASSED MAY 21, 1878; THREE-FIFTHS BEING PRESENT.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section two of the act entitled "An act regulating the sale of intoxicating liquors," passed April eleventh, eighteen hundred and seventy, is hereby amended by inserting after the words, "and shall be paid as other city officers are paid," the words following: *Provided that*, in the city of New York, the commissioners of excise shall receive a salary not to exceed five thousand dollars a year each, to be fixed by the board of estimate and apportionment of said city, who shall annually fix such amount as may be necessary for hire of employees, rent, and other necessary expenses of said board of commissioners, which amount shall be paid out of moneys received for licenses, and said commissioners shall receive no other compensation or emolument for their services as commissioners; and provided, further, that all moneys received for licenses in said city, under this act, shall be paid into the sinking fund for the payment of the principal of the city debt of said city, excepting such amounts as are otherwise appropriated by law.

Sec. 2. Section four of said act is hereby amended so as to read as follows:

Sec. 4. The board of excise in any city, town, or village shall have the power to grant license to any person or persons of good

moral character who shall be approved by them, permitting him or them to sell and dispose of, at any one named place within such city, town, or village, strong or spirituous liquors, wines, ale, and beer in quantities less than five gallons at a time, upon receiving a license fee, to be fixed in their discretion, and which shall not be less than thirty dollars nor more than one hundred and fifty dollars in any town or village, and not less than thirty dollars nor more than two hundred and fifty dollars in any city. Such licenses shall only be granted on written application to the said board, signed by the applicant or applicants, specifying the place for which license is asked, and the name or names of the applicant or applicants, and of every person interested or to be interested in the business to authorize which the license shall be used; and the license shall be kept posted, by the person or persons licensed, in a conspicuous position in the room or place where his or their sales are made, and shall be exhibited at all times by the person or persons so licensed, and by all persons acting under such license, on demand, to every sheriff, constable, or officer, or member of police. Any omission so to display and exhibit such certificate shall be presumptive evidence that any person or persons so omitting to display and exhibit the same has and have no license. The said board of excise shall keep a complete record of the names of all persons licensed as herein provided, with a statement of the place licensed and license fee imposed and paid in each case, which record they shall at all times permit to be seen in a convenient place at their principal office in any city, or at the clerk's office in any town or village. Persons not licensed may keep, and, in quantities not less than five gallons at a time, sell and dispose of strong and spirituous liquors, wines, ale, and beer, provided that no part thereof shall be drunk or used in the building, garden, or enclosure communicating with or in any public street or place contiguous to the building in which the same be so kept, disposed of, or sold.

SEC. 8. Section five of said act is amended so as to read as follows:

SEC. 5. Licenses granted as in this act provided shall not authorize any person or persons to expose for sale, or sell, give away, or dispose of any strong or spirituous liquors, wines, ale, or beer, on any day between the hours of one and five o'clock in the morning. And all places licensed as aforesaid shall be closed and kept closed between the hours aforesaid and at all other times *when such selling is not authorized by law.* And it shall be the

duty of every sheriff, constable, policeman, and officer of police to enforce the observance of the foregoing provisions. Nothing herein contained shall be construed to prevent hotels from receiving and entertaining travellers at any time, subject to the restrictions contained in this act and the act hereby amended.

SEC. 4. Section eight of said act is hereby amended so as to read as follows:

SEC. 8. Any conviction for the violation of any provision of this act or of the acts hereby amended, by any person or persons licensed, or at any place licensed as herein provided, shall forfeit and annul such license. The board of excise of any city, town, or village may, at any time, and, upon the complaint of any resident of said city, town, or village, shall summon before them any person or persons licensed as aforesaid; and if they shall become satisfied that any such person or persons has or have violated any of the provisions of this act or of the acts hereby amended, they shall revoke, cancel, and annul the license of such person or persons, which they are hereby empowered to do, and, where necessary, to enter upon the premises and take possession of and cancel such license. Upon an enquiry, the said board, or the party complained of, may summon, and the said board may compel the attendance of witnesses before them, and examine them under oath.

SEC. 5. Section twenty-one of the act entitled "An act to suppress intemperance, and to regulate the sale of intoxicating liquors," passed April fifteenth, eighteen hundred and fifty-seven, is hereby amended so as to read as follows:

SEC. 21. No inn, tavern, or hotel keeper, or other person, shall sell or give away intoxicating liquors or wines on Sunday or upon any day on which a general or special election or town meeting shall be held, and within one-quarter of a mile from the place where such general or special election or town meeting shall be held, in any of the villages, cities, or towns of this State, to any person whatever, as a beverage. In case the election or town meetings shall not be general throughout the State, the provisions of this section in such case shall only apply to the city, county, village, or town in which such election or town meeting shall be held. Whoever shall offend against the provisions of this section shall be guilty of a misdemeanor, and shall be punished for each offence by a fine not less than thirty dollars nor more than two hundred dollars, or by imprisonment not less than five days nor more than fifty days, or both such fine and imprisonment, at the discretion of the court.

SEC. 6. Nothing herein contained shall in any manner apply to any city or town where the majority of voters have voted for or shall hereafter vote for local prohibition in accordance with any law providing for such voting, until such city or town shall reverse by vote such local prohibition.

SEC. 7. This act shall take effect immediately.

## CHAPTER 820.

**AN ACT** to amend an act entitled "An Act to suppress intemperance, and to regulate the sale of intoxicating liquors," passed April sixteenth, eighteen hundred and fifty-seven.

PASSED June 23, 1873, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section twenty-two of the "Act to suppress intemperance, and to regulate the sale of intoxicating liquors," passed April sixteenth, eighteen hundred and fifty-seven, is hereby amended so as to read as follows:

"SEC. 22. The penalties imposed by this act, except those provided for by sections fifteen and nineteen, shall be sued for and recovered in a civil action in the manner provided by law for the recovery of penalties, by and in the name of the overseers of the poor of the town in which the alleged penalty was incurred; and the amount so recovered, when collected, together with all the costs of the proceedings for such recovery and collection, shall, within thirty days after such collection, be paid by the officer or party receiving the same to the county treasurer of the county, for the support of the poor of such county, except as is otherwise provided by law."

Section thirty of the said act is hereby amended so as to read as follows :

"SEC. 30. In case the parties or persons whose duty it is to prosecute for any penalty imposed for any violation of the provisions of this act shall, for the period of ten days after complaint to them that any person has incurred such penalty, accompanied with reasonable proof of the same, neglect or refuse to prosecute for such penalty, any other person may prosecute therefor in the name of the overseers of the poor of the town in which such alleged penalty was incurred, and in the manner provided by section twenty-two of this act, as the same is amended by section one of this chapter."

## CHAPTER 444.

AN ACT to create a board of excise in the several towns of this State.

PASSED May 4, 1874, three-fifths being present.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. At the annual town meetings in the several towns in this State, held next after the passage of this act, there shall be elected, in the same manner as other town officers are elected, three commissioners of excise, who, while acting as such commissioners, shall not hold either of the offices of supervisor, justice of the peace, or town clerk, the office of president or trustee of any incorporated village; and who shall compose the board of excise of their respective towns, and discharge the duties imposed upon the supervisor and justice of the peace of towns, and the president and trustees of incorporated villages thereof, by chapter one hundred and seventy-five of the laws of eighteen hundred and seventy, and laws amendatory thereof and supplementary thereto; and shall be entitled to receive compensation at the rate of three dollars per day while in session, as a board of excise, which shall be a town charge, except in the counties where the moneys received by said board are paid into the county treasury as hereinafter provided, when it shall be a county charge. The commissioners first elected under this act shall be classified by lot, under the superintendence of the supervisor, the justice of the peace having the shortest time to serve, and the town clerk, or a majority of such officers, who shall meet at the office of the town clerk of their respective towns, for such purpose, within ten days after such town meeting, and the persons drawing for one, two, and three years shall serve for such terms respectively; and annually thereafter one commissioner of excise shall be elected for a term of three years. Vacancies occurring in said boards, from any cause, shall be filled by appointment by the supervisor and justices of the peace of said town, or a majority of them, until the next annual town meeting, when such vacancy shall be filled by election.

SEC. 2. The said commissioners shall be voted for upon a separate ballot, which shall be deposited in a separate box, marked "Excise," and, before entering upon the duties of their offices, shall take and subscribe the constitutional oath of office and file the same with the town clerk; and shall execute a bond to the supervisor thereof, to be approved by him in double the amount of the excise moneys of the preceding year, conditioned for paying over to him, or his immediate successor in office, within thirty days after the re-

ceipt thereof, all moneys received by them as such excise commissioners. Said moneys shall be disposed of as directed by the town board, except in those counties where the support of the poor is a county charge, where such excise money shall be paid into the county treasury, subject to the control of the board of supervisors.

Sec. 3. Nothing in this act shall affect the provisions of any special act in so far as the same provides for any special disposition of excise moneys or fines.

Sec. 4. This act shall take effect immediately.

Sec. 15. No inn, tavern, or hotel keeper, or any other person licensed to sell any strong or spirituous liquors or wines, shall, either personally or by his wife, servant, employee, or other agent, sell or give any such liquors or wines to any Indian or apprentice, knowing or having reason to believe him to be such, or within the knowledge of such agent, without the consent of his master or mistress; nor to any minor under the age of eighteen years, without the consent of his father or mother or guardian. Whoever shall either personally or by his wife, servant, employee, or other agent offend against either of these provisions shall forfeit \$10 for each and every offence, to be recovered by the master of such apprentice or servant, or by the parent or guardian of such minor; and any person who shall, either personally or by his wife, servant, employee, or other agent sell or give away any strong or spirituous liquor, ale, beer, or wine, to any Indian in this State, or shall sell or give away beer or ale or any spirituous liquors or wine to any minor under the age of fourteen years, knowing or having reason to believe him to be such age, shall be deemed guilty of a misdemeanor, and on conviction shall be liable to a fine \$25 for each and every offence.

**LANDLORD AND TENANT BILL.****PASSED MAY, 1873.****CHAP. 588.****AN ACT TO DEFINE SOME OF THE RIGHTS AND RESPONSIBILITIES  
OF LANDLORDS AND TENANTS.**

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

**SECTION 1.** Whenever the lessee or occupant other than the owner of any building or premises shall use or occupy the same, or any part thereof, for any illegal trade, manufacture, or other business, the lease or agreement for the letting or occupancy of such building or premises shall thereupon become void, and the landlord of such lessee or occupant may enter upon the premises so let or occupied, and shall have the same remedies to secure possession thereof as are given by law in the case of a tenant holding over after the expiration of his lease.

**SEC. 2.** The owner or owners of any building or premises knowingly leasing or giving possession of the same, to be used or occupied, in whole or in part, for any illegal trade, manufacture, or business, or knowingly permitting the same to be used for any illegal trade, manufacture, or business, shall be jointly and severally liable with the tenant or tenants, occupant or occupants, for any damage that may result by reason of such illegal use, occupancy, trade, manufacture, or business.

**SEC. 3.** This act shall take effect immediately.

## CIVIL DAMAGE LAW.

THE following is the new Civil Damage Bill passed by the New York Legislature, May, 1873 :

## CHAP. 646.

## AN ACT TO SUPPRESS INTEMPERANCE, PAUPERISM, AND CRIME.

*The People of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Every husband, wife, child, parent, guardian, employer, or other person, who shall be injured in person, or property, or means of support by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, shall have right of action in his or her name against any person or persons who shall, by selling or giving away intoxicating liquors, have caused the intoxication, in whole or in part, of such person or persons; and any person or persons owning and renting or permitting the occupation of any building or premises, and having knowledge that intoxicating liquors are to be sold therein, shall be liable, severally or jointly with the person or persons selling or giving intoxicating liquors aforesaid, for all damages sustained and for exemplary damages; and all damages recovered by a minor shall be paid either to such minor or his or her parent, guardian, or next friend; as the court shall direct; and the unlawful sale or giving away of intoxicating liquors shall work a forfeiture of all rights of the lessee or tenant under any lease or contract of rent upon the premises.

SEC. 2. In any action arising for violations of the provisions of this act, any justice of the peace in the country where the offence is committed shall have jurisdiction to try and determine the same, providing the amount of damages claimed does not exceed two hundred dollars, in which case, and where the damages claimed do not exceed five hundred dollars, the justice of the peace before whom the action is commenced shall associate with himself any other two justices of the peace in the same county, who shall have jurisdiction to try and determine the same.

## CHAPTER 420.

AN ACT to amend chapter six hundred and twenty-eight of the laws of eighteen hundred and fifty-seven, entitled "An Act to suppress intemperance and to regulate the sale of intoxicating liquors." Passed June 5, 1877, three-fifths being present.

*The people of the State of New York, represented in Senate and Assembly, do enact as follows:*

SECTION 1. Section fifteen of chapter six hundred and twenty-eight of the laws of eighteen hundred and fifty-seven, entitled "An Act to suppress intemperance and to regulate the sale of intoxicating liquors," is hereby amended so as to read as follows:

Sec. 15. No inn, tavern, or hotel keeper, or any other person licensed to sell any strong or spirituous liquors or wines, shall either personally, or by his wife, servant, employee, or other agent, sell or give any such liquors or wines to any Indian or apprentice, knowing or having reason to believe him to be such, or within the knowledge of such agent, without the consent of his master or mistress, nor to any minor under the age of eighteen years, without the consent of his father or mother or guardian. Whoever shall either personally, or by his wife, servant, employee, or other agent, offend against either of these provisions shall forfeit ten dollars for each and every offence, to be recovered by the master of such apprentice or servant, or by the parent or guardian of such minor; and any person who shall either personally, or by his wife, servant, employee, or other agent, sell or give away any strong or spirituous liquors, ale, beer, or wine, to any Indian in this State, or shall sell any beer, ale, wine, or any strong or spirituous liquor to any minor under the age of fourteen years, knowing or having reason to believe such minor to be under such age, shall be guilty of a misdemeanor, and on conviction shall be liable to a fine of twenty-five dollars for each and every offence.

Sec. 2. This act shall take effect immediately.

Extract from the decision of the Court of Appeals in 1860:

"The ravages upon the physical, intellectual, and spiritual condition of our race by the habitual use of intoxicating beverages, together with the labors for the last forty years of benevolent and philanthropic individuals to arrest the scourge by efforts to pro-

duce a revolution in the sentiments, practices, and habits of the community in respect thereto, and the several legislative enactments with the same end in view which have been the results of those labors and efforts, are all, as I think, matters of judicial cognizance, and are proper to be borne in mind and referred to in our examinations to ascertain the meaning and true interpretation of the statute now in force on the subject.

"Now that ale, strong beer, porter, and most of the fermented drinks known in this country, and which are sold at public-houses and groceries by the drink, can and do produce intoxication to a greater or less extent, and that such is the ordinary effect of their use as a beverage, no man of mature years, who is not strangely oblivious to surrounding and passing events, can have failed to observe. The fact is so patent that it is impossible to close our eyes against it. There is, in my opinion, one aspect in which the unrestrained sale of such liquors by the drink is far more injurious than that of distilled liquors. I allude to the temptation it presents to the reformed or reforming inebriate, who will much more readily yield to a draught of the former than of the latter, and thus fall a hopeless victim to the appetite which he had well-nigh conquered.

"Upon the whole, it seems to me but little short of absurd to contend that the excise law now in force should receive the construction contended for by the appellant, which would leave at least one-half of the evil intended to be remedied entirely untouched and unprovided against."

Court of Appeals, 1860.      Opinion by      WELLES, J.

#### DECISION OF THE COURT OF APPEALS, 1877.

The decision of the Court of Appeals in the case of Edwin S. Smith, given by Judge Folger, all the others concurring, is to the effect that the provisions of the act of 1857 which prohibit the sale of intoxicating liquors, to be drunk upon the premises, without having a license as a tavern-keeper, are still in full force and effect as a part of the excise law of the State.

## NEW JERSEY.

### AN ACT CONCERNING INNS AND TAVERNS.

SECTION 1. That any three or more of the judges of the inferior courts of common pleas in and for the several counties of this State shall be and they are hereby authorized to grant licenses to persons to keep inns and taverns, and to utter and sell victuals and vinous, spirituous, and other strong liquors for the accommodation of men, and provender for horses, within their respective counties, in the manner prescribed by this act, and not otherwise.

SEC. 2. That no person shall be licensed to keep an inn and tavern but such as shall be recommended by at least twelve reputable freeholders of the city or township where the said inn and tavern is proposed to be kept, who shall certify that the person so recommended by them is of good repute for honesty and temperance, and is known to the persons recommending to have at least two spare beds more than are necessary for the family's use, and is well provided with house-room, stabling, and provender ; and it shall be the duty of the presiding judge, at the time of application made, and before the license is granted, to call upon the judges present to make known any facts or objections within their individual knowledge, if any there be, why such application should not be granted ; and thereupon the court may, in their discretion, grant the license prayed for by the applicant.

SEC. 3. That no person shall be licensed to keep an inn or tavern unless the freeholders who shall recommend him or her shall also certify that such an inn or tavern is necessary and will conduce to the public good.

SEC. 4. That if any person who shall sign a recommendation, as aforesaid, shall therein have imposed on the court either by signing to an undeserved character or by describing a situation not true, or in any other manner, then every person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined in the sum of ten dollars, to be paid to the overseers of the poor where the said inn and tavern was proposed to be kept, and applied to the use of the poor of the township or precinct.

SEC. 5. That every person, before he or she shall receive a license to keep an inn and tavern, shall become bound by recognizance to the State in the sum of one hundred dollars as principal, with two sufficient sureties, being freeholders in the county, in the sum of fifty dollars each, to be taken before the court that shall grant the said license, with condition following, to wit :

"The condition of this recognizance is such that whereas the above-bounden A. B. is licensed by the court to keep an inn and tavern in the house where dwelleth, in the township or precinct of , in the county of , for the space of one year next ensuing. If, therefore, the said A. B., during the continuance of the said license, shall not keep a disorderly inn or tavern, nor game himself or herself, nor suffer any person to game in his or her house for money, or the value of money, nor violate the laws made concerning inns and taverns, but shall, during the said term, in all things respecting him or her as an innholder and tavern-keeper, use and maintain good order and rule, and find and provide good, wholesome, and sufficient lodging, diet, and entertainment for man and stabling and provender for horse, and observe the directions of the law relating to inns and taverns, then this recognizance to be void, or else to remain in full force and virtue.

"And if the applicant for a license to keep an inn and tavern shall be prevented by sickness, infirmity, or other reasonable cause, to be judged of and allowed by the said court, from attending in person, then the said court may grant the license on three sureties, as aforesaid, entering into such recognizance in sixty dollars each ; all recognizances taken by virtue of this section shall be and remain with the clerk of the court before whom the same shall be taken."

SEC. 6. That the recognizance required by the fifth section of this act may be taken by any judge of the said court of common pleas, out of court, and being signed by such judge, and filed by the clerk, shall have the same force and effect as if the same had been taken in open court.

SEC. 7. That it shall be lawful for the said court to demand and receive for every such license granted and recognizance taken the sum of one dollar ; and for the clerk of the court to demand and receive for entering, drawing, and filing such recognizance, and drawing the license and annexing thereto the seal of the court, and making entry in the minutes of such license being granted, the sum of one dollar.

SEC. 8. That every license to keep an inn and tavern shall be signed by the clerk of the court which granted the same, and shall have the seal of the said court thereto affixed by the said clerk ; which license shall be in the words, or to the effect, following :

" county, to wit:

" At an inferior Court of Common Pleas, in and for the said county, held at in the same, the day of in the year of our Lord one thousand .

" The said court doth hereby allow and license A. B., of the township of in the county aforesaid, to keep an inn and tavern, in the house wherein dwells, for one whole year from the day above said, and no longer; so that the said A. B. shall use and exercise this license, during the said term, according to the tenor and true meaning of the laws in such case made and provided. Given under my hand and the seal of the said court, the day and year first above written.

" C. D., Clerk."

SEC. 9. That no license shall entitle any person to keep an inn and tavern in any other place than that in which it was first kept by virtue of such license; and such license with regard all other places and persons shall be void.

SEC. 10. That no license shall authorize any innholder, tavern-keeper, or any person, by his or her authority or permission, to sell, or to keep and expose for sale, any rum, gin, brandy, whiskey, cider spirits or other ardent spirits, wine, or any other liquid of which distilled spirits or wine shall form a component part, in any bar, stand, or other place out of the inn or tavern house for which license shall have been granted according to law; and any person offending against the provisions of this section shall be considered as keeping a disorderly house, and forfeit his or her license and recognition, and shall be liable to all the penalties imposed by law for selling without license.

SEC. 11. That from and after the passage of this act, all and every person applying to any court authorized by law to grant license to keep an inn and tavern shall make his or her application to the court for said purpose on the first day of the session of said court; and the said court shall, on the first day of said session, or on some other day thereof, publicly fixed on by the said court on the said first day, determine in open court on said application, by granting or refusing the same.

SEC. 12. That every license to keep an inn and tavern shall be made to continue for one year, and no longer; but may be renewed yearly by the said courts, upon the like recommendation, penalties, assessments, and fees, and in the same manner in every respect as when such license was originally granted; and, further, if any person who, at the expiration of his or her license, shall neglect or refuse to renew the same in manner aforesaid, shall notwithstanding sell and retail vinous, spirituous, or strong liquors, then such per-

son shall be subject to the like penalties as for selling without license.

SEC. 13. That it shall be the duty of, and it is hereby expressly enjoined upon, the said courts to license no more inns and taverns in their respective counties than shall be necessary to accommodate and entertain travellers and strangers, to serve the public occasions of the said counties, and for the convenience of men's meeting together to transact business ; and to prevent, as much as possible, inns and taverns to be kept for the encouragement of gaming, tippling, drunkenness, and other vices.

SEC. 14. That the said courts shall not grant a license to keep an inn and tavern to any sheriff, under-sheriff, or jail-keeper.

SEC. 15. That the said court shall not grant a license to any shop-keeper to keep an inn and tavern ; neither shall any inn and tavern and shop for selling goods, wares, and merchandise be kept in one house ; and if any shopkeeper shall give or retail strong liquors so as to encourage drunkenness, revelling, or frolicking in his or her house or store, he or she shall forfeit sixteen dollars for every such offence, to be recovered with costs, by action of debt, by any person who will prosecute for the same, in any court of record having cognizance of that sum. *Provided*, however, that nothing in this section shall be so construed as to prevent the keeping of an inn and tavern and shop for the selling of goods, wares, and merchandise under the same roof, in any city, borough, or town corporate in this State, where the house is so constructed that the shop and tavern (though under the same roof) shall be entirely distinct, without any communication existing between them, and where the tavern and shop shall be kept by different persons, neither of whom have an interest in, or connection with, the business of the other.

SEC. 16. That every inn-holder and tavern-keeper shall have and keep in his or her house at least two good feather-beds for guests, with good and sufficient bedclothes for the same, and provide and keep good, wholesome, and sufficient diet for travellers, and stabling and provender of hay and grain for four horses more than his or her own stock, upon pain of forfeiting for every neglect or default of having any of the articles in this cause mentioned the sum of three dollars, to be recovered by action of debt, with costs, in any court of record having cognizance thereof, by any person or persons who shall prosecute for the same.

SEC. 17. That every person to whom the court shall see cause to grant a license to keep an inn and tavern, shall, before the delivery of the said license to him or her, pay to the clerk of the said court such sum as the said court shall assess thereon ; and the said court shall take into consideration the situation and circumstances of the

place where the inn and tavern is intended to be kept, as affording more or less profit to the applicant, and agreeably thereto shall ascertain the sum to be paid for every license, not being less than nor more than seventy dollars ; and no license shall be delivered to any person unless the money so assessed for the same shall have been paid to the clerk of the court.

SEC. 18. That it shall be the duty of every clerk of the said court to make and enter upon the minutes of the said courts a true account of the moneys which he shall from time to time receive upon licenses granted for inns and taverns, and to pay the same money within two weeks after the receipt thereof to the collector of the county, to and for the use of the said county, accompanied with copy of the account thereof from the minutes, signed by at least three of the judges present, a duplicate of which account, signed as aforesaid, the said clerk shall also transmit to the clerk of the board of chosen freeholders of the said county.

SEC. 19. That it shall be the duty of every county collector to yearly, and every year, before the board of chosen freeholders of such county, at their annual meeting, an accurate state and account of the moneys which he shall have received from the clerk aforesaid upon licenses for inns and taverns, together with the settlement he shall have made with the said clerk for such moneys.

SEC. 20. That the said clerks shall at all times be accountable to the board of chosen freeholders for the moneys which they shall receive for licenses as aforesaid to and for the use of the said counties respectively.

(Sec. 21 repealed.)

21. SEC. 22. That every innholder and tavern-keeper shall within twenty days after obtaining his or her license, put up and fix a sign on or adjacent to the front of his or her house, with his or her name thereon, and keep such sign up during the time he or she shall keep an inn and tavern, under the penalty of one dollar for every month's neglect thereof, to be recovered by action of debt with costs, in any court of record having cognizance thereof, by an person or persons who shall prosecute for the same.

22. SEC. 23. That it shall be deemed an offence against this State for any innholder or tavern-keeper to permit or suffer any cock fighting or playing with cards or dice, or to keep any billiard-table or other gaming-table, in his or her inn or tavern, or in any out house, tenement, yard, or garden belonging thereto, or therein to permit any kind of gaming by lot or chance. (See section 48.)

23. SEC. 24. That it shall be the duty of the said courts, with their respective counties, to revoke or annul any license granted to any person to keep an inn and tavern, in case such per-

shall offend against any section or part of this act, or shall not observe the directions thereof, or shall not do all and every the matters and things therein prescribed and enjoined to be done; and if such person, after a copy of the rule or order of the said court revoking or annulling his or her license shall have been served on him or her, shall notwithstanding continue to sell or retail any vinous, spirituous, or strong liquors, then such person shall be liable to the like penalties as for selling without license.

24. SEC. 25. That if any innholder or tavern-keeper shall sell any vinous, spirituous, or strong liquors to any apprentice or servant, knowing, or having reason to suspect or believe, him or her to be such, without the consent of his or her master or mistress, such innholder or tavern-keeper shall for every offence forfeit the sum of four dollars, to be recovered by action of debt, with costs, by the master or mistress of such apprentice or servant, in any court of record having cognizance thereof.

25. SEC. 26. That if any innholder, tavern-keeper, or other person or persons shall take or receive, directly or indirectly, from any apprentice or servant, any clothing or other goods, chattels, wares, or merchandise, in payment for any vinous, spirituous, or strong liquors, or in pawn or pledge to secure such payment, then he, she, or they so offending shall forfeit and pay unto the master or mistress of such apprentice or servant treble the value of all such clothing or other goods, chattels, wares, or merchandise which he, she, or they shall have so taken or received as aforesaid, to be recovered by such master or mistress, his or her executors or administrators, by action of debt or on the case, with costs, in any court having cognizance of the same.

26. SEC. 27. That if any innholder and tavern-keeper shall trust or give credit to any person or persons for vinous, spirituous, or strong liquors, he, she, or they, so trusting or giving credit to any person or persons as aforesaid, shall lose the debt, and be for ever disabled from suing for or recovering the same or any part thereof; and if any innholder and tavern-keeper shall sue for any such debt, the person or persons sued shall and may plead this act in bar; and if the plaintiff in such suit shall become nonsuit, or a verdict or judgment shall be given for the defendant, then such plaintiff shall pay double costs (a).

27. SEC. 28. That if any innholder and tavern-keeper shall take or get from any person or persons trusted as aforesaid any note, bill, bond, or other security for any vinous, spirituous, or strong liquors, sold and drunk in or at his or her house under pretence that it is for victuals or any other thing, whereby to evade this act, then every such note, bill, bond, or other security shall be void; and the

defendant or defendants may plead this act in bar to any action or suit to be brought thereon.

28. SEC. 29. That nothing in this act shall be construed to debar any innholder and tavern-keeper from taking, receiving, or recovering any sum or sums of money which shall become due and owing to him or her, from persons who may be lodgers in his or her house, or from travellers not residing in the town, city, precinct, or township where such inn and tavern is kept.

29. SEC. 30. That it shall be the duty of every justice of the peace, on view, complaint, or information that any innholder and tavern-keeper hath committed any act or thing, or hath neglected, omitted, or refused to observe or do any act or thing, whereby in the judgment of said justice the recognizance aforesaid may be forfeited or the condition thereof broken, to require, by summons under his hand and seal, such innholder and tavern-keeper to appear at the next court of general quarter sessions of the peace, then and there to answer to the matter of such complaint or information; and also to bind the complainant or any other person in recognizance to appear and give evidence; and it shall be the duty of the said court to direct the jury which shall there attend for the trial of traverses, or some other jury of good and lawful men to be then and there empanelled by the sheriff, to enquire thereof; and if the jury find that such innholder and tavern-keeper hath done, or hath neglected, omitted, or refused to observe or do, any act or thing whereby the said recognizance is broken, such act being specified in such complaint or information, the said court shall adjudge him or her guilty, which verdict and adjudication shall be final; and thereupon the said recognizance shall be forfeited, judgment final with costs shall be given against the recognizors as in case of debt, and execution shall issue thereon accordingly; and, further, that the sheriff shall pay the money which he shall have received by virtue of such execution into the treasury of this State, at the time and in the manner prescribed by law in regard to penalties and forfeited recognizances and fines and amercentments, and shall be entitled to the fees and subject to the penalties and actions thereby prescribed. *Provided*, that the said court at the request of the attorney-general, or attorney prosecuting the pleas in his absence, or of the party complained of, or either of his or her sureties, may, on reasonable cause shown, adjourn the trial of such complaint or information to the then next sessions or term.

30. SEC. 31. That if any innholder and tavern-keeper shall be convicted of being drunk in his own inn and tavern, besides the penalty consequent on the crime of drunkenness, his license shall immediately thereupon become void.

31. SEC. 32. That this act shall not be construed to prevent any innholder and tavern-keeper who, before the passing thereof, was licensed according to law, from acting as such during the term for which his or her license shall have been granted, subject, nevertheless, to the like conditions, duties, pains, and penalties as if this act had not been made.

32. SEC. 33. That nothing in this act contained shall be taken, deemed, or construed to alter, change, or in any manner affect the rights, powers, privileges, and immunities given and granted by law to any city or town corporate in this State relative to the licensing of inns and taverns within their respective cities or towns corporate, such cities or towns corporate nevertheless conforming to the directions and being subject to the limitations, restrictions, and provisions herein contained and given to the inferior courts of common pleas in the several counties of the State, except that the recommendation for a license in such cities or towns corporate shall be signed by at least ten reputable freeholders residing therein.

33. SEC. 34. That it shall not be lawful for any person not having a license to keep an inn and tavern to put or keep up on or near his or her dwelling-house any sign or other device usually employed to denote the keeping an inn or tavern, and every person so offending shall forfeit and pay five dollars for every month that the same shall be so kept up, to be recovered by action of debt, with costs, by any person who shall sue for the same before any justice of the peace in the county where the offence shall be committed.

34. SEC. 35. That it shall be and it is hereby made the duty of the clerks of the courts of general quarter sessions of the peace in the several counties of this State, at least once in every year, or oftener, if thereunto required by the grand jury duly empanelled for any county, to make out a list of the names of all the persons within the said county who shall have a license to keep an inn and tavern, and to lay the said lists before the grand jury of said county on the first day of their meeting.

35. SEC. 36. That whenever any of the inferior courts of common pleas, in and for any of the counties in this State, shall reject and refuse to grant the application of any person or persons for license to keep an inn and tavern, under the provisions of this act, it shall not be lawful for such person or persons whose application to keep such inn and tavern shall have been rejected by the court aforesaid, to apply again for said license at any time within one year thereafter.

(Section 37 repealed. See crimes, section 60.)

36. SEC. 38. That in all indictments hereafter found upon this act, it shall be sufficient to describe the liquor sold as ardent spirits, without specifying particularly the kind or description thereof. (a.)

37. SEC. 39. That if any person or persons shall, without a license for that purpose, first had and obtained according to law, sell by retail any rum, brandy, wine, or spirits of any kind, or any other liquid of which distilled spirits shall form a component part (except such as are compounded and intended to be used for medicine), under the quantity of one quart, he or she so offending shall forfeit and pay for every such offence ten dollars, to be recovered by action of debt, with costs, in any court of record having cognizance thereof, by any person who may prosecute for the same, in the name of the overseer or overseers of the poor of the township in which such offence may take place, one-half for the benefit of the person so prosecuting, and the residue for the use of the poor of such townships. *Provided*, that such prosecution shall be commenced within six calendar months after said offence shall have been committed; provided, also, that nothing in this act contained shall be so construed as to prevent or impair any prosecution or proceeding by indictment under this act (a).

(Section 40 repealed. See crimes, section 62.)

38. SEC. 41. That if any sheriff shall knowingly permit any under-sheriff, jailer, or other person to sell in the court-house or jail of the county of which he is sheriff any wine, gin, whiskey, cider, spirits, brandy, or other ardent spirits, or any composition of which any of the said liquors shall form the chief ingredient, he shall for every such offence forfeit and pay the sum of fifty dollars, one-half to the use of the person prosecuting for the same, and the other half to the use of the county in which the said offence was committed, to be recovered by action of debt, in any court of competent jurisdiction, with costs of suit.

39. SEC. 42. That when any suit shall be commenced against any sheriff for violation of the forty-first section of this act, if it shall appear upon the trial that the said offence was committed during the sitting of any of the courts in the court-house, such fact shall be deemed and taken as conclusive evidence of the knowledge of the said sheriff in that behalf.

40. SEC. 43. That it shall not be lawful for any under-sheriff, jailer, or other person or persons who may occupy the court-house or jail of any of the counties in this State to keep the same as a house of public entertainment, and sell, or permit to be sold, therein food or provisions of any kind after the manner of licensed inn-keepers; and if any person or persons shall offend against the provision of this section, he, she, or they shall forfeit and pay for every offence the sum of twenty-five dollars, to be recovered by any person prosecuting for the same, one-half to the use of the person so prosecuting, and the other half to the use of the county in which

the said offence was committed, to be recovered by action of debt in any court of competent jurisdiction, with costs of suit.

41. SEC. 44. That in any suit which may be brought under this act, the inhabitants of the county in which said suit may be brought shall be deemed and taken as competent witnesses.

42. SEC. 45. That the freeholders required to recommend to the courts suitable persons for license to keep inns and taverns shall be such as shall not have recommended any other application for a license under the second section of this act, in the same township, city, or borough, for the same year.

43. SEC. 46. That it shall and may be lawful for the inferior courts of common pleas of the several counties in this State to grant licenses to keep temperance inns and taverns in said counties, on applications of similar form, and accompanied by like recommendations as are required by this act, excepting that applications for such temperance licenses shall distinctly state the intention of the applicant to keep a temperance house.

44. SEC. 47. That the license to be issued on such application shall be in the following form :

“  
county, to wit:  
“At the inferior court of common pleas, in and for the said county, held at in the same, the day of in the year of our Lord one thousand . The said court do hereby allow and license A. B., of the township of , in the county aforesaid, to keep a temperance inn and tavern in the house wherein dwells, for one whole year from the day aforesaid, and no longer ; so that the said A. B. shall use and exercise this license during the said term according to the tenor and true meaning of the laws in such case made and provided. Given under my hand and the seal of the said court the day and year first above written.

“C. D., Clerk.”

45. SEC. 48. That every person, before he or she shall receive a license to keep a temperance inn and tavern, shall become bound by recognizance to the State in the sum of one hundred dollars as principal, with two sufficient sureties, being freeholders in the county, in the sum of fifty dollars each, to be taken before the court that shall grant the said license, with condition following, to wit : “The condition of this recognizance is such that, whereas the above-bounden A. B. is licensed by the court to keep a temperance inn and tavern in the house where dwelleth, in the township or precinct of , in the county of , for the space of one year next ensuing ; if, therefore, the said A. B., during the continuance of the said license, shall not keep a disorderly inn or tavern, nor game himself or herself, nor suffer any person to game,

in his or her house for money or the value of money, nor keep, offer, sell, or otherwise dispose of in his or her house, nor in any out-house, yard, or garden connected therewith, any vinous, fermented, spirituous, or strong or intoxicating liquors, nor violate the laws made concerning inns and taverns, but shall during the said term, in all things respecting him or her as an innkeeper and tavern-keeper, use and maintain good order and rule, and find and provide good, wholesome, and sufficient lodging, diet, and entertainment for man, and stabling and provender for horse, and observe the directions of the law relating to inns and taverns, then this recognizance to be void, or else to remain in full force and virtue."

46. SEC. 49. That the applicant for such license to keep a temperance inn and tavern shall pay to the court and clerk the same fees for said license, recognizance, and rates as are provided for in the seventh and twenty-first sections of this act, but shall be wholly exempt from the tax imposed and provided for in the seventeenth section of said act.

47. SEC. 50. That the said courts of common pleas shall exercise the like discretion in granting such license, and in prescribing rates for the regulation of prices under the same, as is provided for in this act.

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#### SUPPLEMENT.

Approved April 17, 1868.

48. SECTION 1. That so much of the twenty-third section of the act entitled "An Act concerning Inns and Taverns," approved April seventeenth, eighteen hundred and forty-six, as makes it an offence against this State for any innholder or tavern-keeper to keep any billiard-table in his or her inn or tavern, or in any out-house, tenement, or garden belonging thereto, be and the same is hereby repealed.

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#### SUPPLEMENT.

Approved March 16, 1869.

49. SECTION 1. That it shall be unlawful for any person or persons to sell or expose for sale any spirituous, vinous, fermented, or other intoxicating liquors, in any quantity whatever, in or from any wagon, carriage, sleigh, or other ambulating conveyance whatever; and any person offending against the provisions of this act shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by a fine not exceeding twenty dollars for each offence, together with the costs of prosecution.

## SUPPLEMENT.

Approved March 26, 1874.

50. SECTION 1. That none of the provisions of the thirty-seventh section of the act entitled "An Act concerning Inns and Taverns," approved April seventeenth, eighteen hundred and forty-six, or of the act entitled "A Supplement to an act concerning Inns and Taverns," approved March third, eighteen hundred and forty-seven, which supplement was approved March eighth, eighteen hundred and forty-eight, or of the act entitled "A further Supplement to an act entitled 'An Act concerning Inns and Taverns,'" approved February twentieth, eighteen hundred and forty-nine, shall hereafter apply to offences committed in any of the incorporated cities of this State, the ordinances of which provide for the punishment of the unlicensed sale of spirituous liquors, and for the punishment of the sale of spirituous, malt, vinous, fermented, or intoxicating liquors on Sunday.

51. SEC. 2. That where the ordinances of any incorporated city of this State shall provide for the punishment of the offence of keeping a disorderly house, it shall not hereafter be lawful to prosecute by indictment any person accused of keeping a disorderly house in such city, where the alleged offence consists only of the continuous or frequent violation of the provisions of the acts mentioned in the first section of this act, or any of them, but any person so offending shall be prosecuted and punished only under and by virtue of the provisions of such ordinances.

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**AN ACT TO REGULATE THE SALE OF ALE, STRONG BEER, LAGER, PORTER, WINE, AND OTHER MALT LIQUORS IN THE STATE OF NEW JERSEY.**

Approved April 4, 1872.

52. SECTION 1. That it shall not be lawful to sell ale, strong beer, lager-beer, porter, wine, or any other malt liquors (except where the same is compounded and sold as a medicine) in quantities less than a quart, if the same is drunk on or about the premises where sold, in the State of New Jersey, without a license first had and obtained for that purpose from the Judges of the Court of Common Pleas of the county, or from the other authorities now having power by law to grant license.

53. SEC. 2. That a written application for the license shall be made and signed by the applicant, stating the kind or kinds of malt liquors he proposes to sell, and the place or township where he proposes to locate his place of business, which application shall also be

signed by ten freeholders of the township, who have not signed another petition or application, where he proposes to locate his saloon or shop, who shall recommend said applicant as a sober and honest man, after which shall follow an affidavit of applicant that said persons recommending him are freeholders of said township, and that he will keep a quiet and orderly house according to the requirements of the law.

54. SEC. 3. That every person, before he or she shall receive such license, shall become bound by recognizance to the State in the sum of one hundred dollars as principal, with two sufficient sureties being freeholders in the county, in the sum of fifty dollars each, with condition following, to wit: The condition of the recognizance is such, that whereas the above-bounden \_\_\_\_\_ is licensed by the court to sell malt liquors in the house at \_\_\_\_\_, in the township of \_\_\_\_\_, in the county of \_\_\_\_\_, for the space of one year next ensuing; if, therefore, the said \_\_\_\_\_, during the continuance of his license, shall not keep a disorderly house, nor violate the provisions of this or other laws against encouraging and harboring drunken persons, vagrants, idle and vicious persons, thieves, gamblers, prostitutes, and other disorderly persons, but shall in all things respecting him or her use and maintain good order and rule, and observe the directions of the law, then this recognizance to be void, or else to remain in full force and virtue.

55. SEC. 4. That this recognizance may be taken before any judge of common pleas out of court, master in chancery, or supreme court commissioner, and being signed by said applicant, sureties, and acknowledged before said officer, and filed by the clerk of said court of common pleas, shall have the same force and effect as if the same had been taken in open court.

56. SEC. 5. That the officers taking such recognizance shall be entitled to the sum of fifty cents; the court, for inspecting paper and granting license, the sum of one dollar; and the clerk of the court, for drawing and filing such recognizance, drawing license and affixing thereto the seal of the court, and making entry in the minutes of such license, shall demand and receive the sum of two dollars.

57. SEC. 6. That every license to sell malt liquor shall be signed by the clerk of the court granting the same, and shall have the seal of said court affixed thereto by said clerk; which license shall be in the words and to the effect following, viz.: " \_\_\_\_\_ county, to wit: At an inferior court of common pleas, in and for said county, held at \_\_\_\_\_, in the same, the \_\_\_\_\_ day of \_\_\_\_\_, in the year of our Lord one thousand \_\_\_\_\_, the said court doth hereby allow and license \_\_\_\_\_, of the township of \_\_\_\_\_, to sell malt liquors

in the place he now keeps, for one whole year from day aforesaid and no longer, so that said \_\_\_\_\_ shall use and exercise this license during the said term according to the just and true meaning of the laws in such cases made and provided. Given under my hand and the seal of said court, the day and year first above written.

, Clerk."

58. SEC. 7. That no license shall entitle a person to keep and sell malt liquors in any other place than that in which it was first kept by virtue of such license, and such license, with regard to other places and persons, shall be void.

59. SEC. 8. That application for license under this act shall be made on the first day of the session of such court, and the said court shall, on that day, or on some other day publicly fixed by said court on said first day, determine in open court on said application, by granting or refusing the same.

60. SEC. 9. That every such license shall be made to continue for one year, and no longer, but may be renewed yearly by said court upon like recommendation, penalties, assessments, and fees as when such license was first granted.

61. SEC. 10. That every person licensed under this act shall, before license is delivered to him, pay the clerk of the court such sum as the court shall assess, which shall not be less than ten nor more than fifty dollars; and no license shall be delivered to any person unless the money so assessed for the same, and all fees, shall have been paid to the clerk.

62. SEC. 11. That it shall be the duty of the clerk to enter in the minutes of said court a statement of all persons licensed and place of location, together with sums assessed for said licenses, and date of receiving the same, and within one month after receipt of such moneys shall pay them over to the county collector for the use of the county.

63. SEC. 12. That if any person or persons shall, without a license for that purpose first had and obtained according to this act, sell, or cause or knowingly permit to be sold, directly or indirectly, any ale, strong beer, porter, lager-beer, wine, or other malt liquors (except such as are compounded and sold as a medicine), under the quantity of one quart, if the same is drunk in, on, or about the premises where sold, then he or she so offending shall forfeit and pay for every such offence the sum of fifty dollars, to be recovered by action of debt, with cost, by any person who shall sue for the same, in any court of record having cognizance of that sum, one-half to the prosecutor and the other half to the inhabitants of the county.

64. SEC. 13. That, in addition to the penalties imposed in section twelve of this act, if any person or persons shall sell any of

liquors aforesaid, without license first had and obtained according to this act, or shall sell on Sunday (a), then such persons or persons shall be held as a keeper or keepers of disorderly houses, and shall be liable to indictment as keepers of disorderly houses, and, upon conviction, shall be subject to like pains and penalties as are now imposed by law on keepers of gambling houses, houses of prostitution, and other common nuisances.

65. SEC. 14. That the provisions of this act shall not apply to any township, city, or incorporated town in which laws are in force regulating the sale of any of the liquors mentioned in this act.

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**AN ACT TO PREVENT THE USE OF SPIRITUOUS LIQUORS AT VENDUES.**

Passed February 11, 1797.

66. SECTION 1. If any person who shall make any vendue in this State shall give or sell, or suffer to be given or sold, in order to be drunk at the time and place of such vendue, any vinous, spirituous, or other strong liquors, such person so offending shall forfeit twenty dollars, to be recovered by action of debt, with costs, by any person who shall sue for the same, in any court of record having cognizance of that sum, one-half to the prosecutor and the other half to the overseers of the poor of the township or precinct where the offence was committed, for the use of the poor thereof.

67. SEC. 2. *Provided* this act shall not extend to any vendue made or held at any inn or tavern by any civil officer.

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**SUPPLEMENT.**

Approved April 11, 1867.

71. SECTION 1. In cases where no newspapers shall be published in any city, town, or township where any hotel, inn, or boarding-house shall be kept, the sale provided for in the second section of the act to which this is a supplement may be made upon a notice published for three days in a public newspaper published in the county where such hotel, inn, or boarding-house shall be kept, and circulating in the neighborhood thereof.

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**A FURTHER SUPPLEMENT** to the act entitled "An Act to revise and amend the charter of the city of Newark," approved March eleventh, eighteen hundred and fifty-seven.

SECTION 1. *Be it enacted* by the Senate and General Assembly of the State of New Jersey, that there shall be in the city of Newark a *board of excise commissioners*, which shall consist of three resident

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freeholders of said city, to be nominated by the mayor and confirmed by the common council of said city, whose term of office (except as to the persons first constituting said board) shall be three years, and who shall each receive for their services such annual salary, not to exceed the sum of five hundred dollars, as the said common council may fix or determine.

SEC. 2. *And be it enacted*, That all licenses for the sale of strong and spirituous liquors, wine, ale, and beer within the limits of said city of Newark shall be granted by said board of excise commissioners; and said board shall have the power to grant license to any person or persons of good moral character who shall be approved of by them, permitting him or them to sell and dispose of at any one named place within such city strong and spirituous liquors, wines, ale, and beer in quantities less than five gallons at a time, upon receiving a license fee to be fixed by said board; and there shall be hereafter a separate license granted for the sale of ale and beer, and another for the sale of spirituous liquors and wines; the license fee for selling ale and beer shall be thirty dollars, and the license fee for selling spirituous liquors and wines shall not be less than fifty dollars, or more than one hundred dollars for each license; such licenses shall only be granted on written application to the said board, signed by the applicant or applicants, specifying the place for which license is asked, and the license shall be kept displayed by being hung up by the person or persons licensed in a conspicuous position in the room or place where his or their sales are made; any omission so to display and exhibit such certificate shall be presumptive evidence that any person or persons omitting to display and exhibit the same has and have no license; the said board of excise commissioners shall keep a complete record of the names of all persons licensed, as herein provided, with a statement of the place licensed, and license fee imposed and paid in each case; which record they shall at all times permit to be seen in a convenient place at their office in said city; persons not licensed may keep, and, in quantities not less than five gallons at a time, sell and dispose of, strong and spirituous liquors, wines, ale, and beer in said city. *Provided*, that no part thereof shall be used or drunk in the building, garden, or enclosure communicating with or in any public street or place contiguous to the building in which the same is kept, disposed of, or sold.

SEC. 3. *And be it enacted*, That the mayor of said city shall nominate to the common council of said city, at their first regular meeting held after the passage and approval of this act, three resident freeholders of said city as members of said board for the term to expire as hereinafter mentioned; all nominations made to the common

council by the mayor, under the provisions of this act, shall be confirmed or rejected by said common council at once, and in case of the rejection of such nominees, or any of them, the mayor shall continue so to nominate one, two, or three persons, as the case may be, until the nominations are confirmed and the board is complete.

SEC. 4. *And be it enacted*, That the term of office of the three persons first constituting said board shall be determined by lot, one to remain in office until the first Tuesday after the first day of January in the year eighteen hundred and seventy-six, another to remain in office until one year thereafter, and the third to remain in office until the first Tuesday after the first day of January, in the year one thousand eight hundred and seventy-eight; and that in the month of December, in the year eighteen hundred and seventy-five, and in the month of December in each and every year thereafter, the mayor of said city shall nominate to the said common council a resident freeholder of said city to be a member of said board for the term of three years from the first Tuesday after the first day of January of the following year; when, in case of the failure or refusal of the mayor to nominate, or of the common council to confirm, or for any other reason, the time for the commencement of any term of office of any member of said board, as aforesaid, shall pass by without a new appointment having been made and confirmed, then the members of said board for the preceding term shall hold over and perform all the duties of commissioners of excise until a new appointment shall be made and confirmed, and such new member shall qualify; in case of a vacancy in said board by reason of death, resignation, failure to qualify according to law, or otherwise, the said mayor shall nominate to the said common council some eligible person or persons to fill said vacancy or vacancies, and the person or persons nominated and confirmed to fill said vacancy or vacancies shall be members of the board for the remainder of the then unexpired term, and may hold over as above provided.

SEC. 5. *And be it enacted*, That the said board shall meet regularly each and every week, and more frequently if necessary, for the purpose of receiving and passing upon applications for license, and for transaction of such business as may properly come before them, and shall keep or cause to be kept full and complete records and minutes of the doings of the said board, at each meeting held by them, in a proper book or books, which said book or books shall, except when the said board are in session, be kept in the office of the city clerk of said city, and shall be open to the inspection of the mayor and common council of said city and the officers of any department of the city government when required, and subject to such other provision as the common council may ordain; said board may

appoint one of their own number to be president of the board, and may adopt such by-laws for the government of the board as they may deem proper; the said common council shall provide such room or rooms for the use of said board as to the said common council may seem best, and fit up the same and furnish all the books, blanks, and stationery, license certificates, and other things necessary for the transaction of the business of said board; said common council shall, from time to time, appoint some suitable person to be inspector of excise, whose duty it shall be to faithfully and thoroughly inspect all places where strong and spirituous liquors, wines, ale, or beer are sold within the said city of Newark, and promptly report to the said board the names and places of business of all persons who are selling without the license of the board, or who may violate any of the provisions of this act, and to perform such other duties as may be required of him by said board or by the said common council, who shall have power by ordinance or by resolution to more fully define or describe the duties of said inspector; the common council shall fix the compensation to be paid to said inspector, and he may be removed from office by them at any time; the city clerk of said city shall be the clerk of said board; each person confirmed as a member of said board shall qualify within ten days thereafter by (before he enters upon the duties of his office) taking and subscribing the oath provided for in section twenty-four of the city charter, and shall also enter into, and deliver to the city clerk, a bond to the mayor and common council of the city of Newark in the sum of five thousand dollars, with two sufficient sureties, to be approved by the committee on finance of the common council.

SEC. 6. *And be it enacted*, That said board shall cause to be printed in pamphlets or circulars this act, or a proper synopsis thereof, together with the rates of license fees adopted by them, which pamphlets or circulars shall be kept in their office for distribution to suitable persons, and for information and inspection, and a copy shall be given to each person to whom license shall be granted; each license shall be granted for one year only, and the full amount of the license fee shall be paid in when application is made for license in each case, and no license shall be granted by said board until the full amount of the license fee is paid to them by the person or persons applying for the same.

SEC. 7. *And be it enacted*, That said board shall each and every week pay over to the comptroller of the city of Newark the total amount received by them for license fees during said week, and at the same time present to the said comptroller a complete statement and account, in writing, of all the licenses granted by them during said week, the persons to whom granted and the residence of said

persons, and the amount of the license fee paid in each case, the time when it was paid and when the license was granted, and whether it was for the sale of strong and spirituous liquors, or wines, or ale, or beer, and the place where the same was licensed to be sold.

SEC. 8. *And be it enacted*, That whoever shall sell any strong or spirituous liquors, wines, ale, or beer, in quantities less than five gallons at a time, at any place within said city, without having a license therefor, granted as herein provided, shall forfeit and pay fifty dollars for each offence.

SEC. 9. *And be it enacted*, That no inn, tavern, hotel, victualling-house, or saloon-keeper, or any other person licensed to sell any strong or spirituous liquors or wines within the said city, shall sell or give away any such liquors or wines to any apprentice or to any minor under the age of eighteen years, knowing or having reason to believe him such, under a penalty of ten dollars for each offence.

SEC. 10. *And be it enacted*, That any special police justice of the city of Newark shall have jurisdiction in the matter of all complaints for the violation of any of the provisions of this act, and shall have full power to hear, adjudge, and determine said complaints, and issue warrants and other processes, and impose the fines and penalties provided for in this act; and every special police justice of said city shall make such return and payment of the fines and penalties and costs received by him in all matters coming before him under this act as he is now required to make respecting fines, penalties, and costs of suit paid to him under complaints for the violation of ordinances.

SEC. 11. *And be it enacted*, That all licenses heretofore granted by the board of excise of said city of Newark and now unexpired, on which the full fees required at the time of their granting have been paid, shall be valid until the time for which they were granted shall expire. *Provided*, the holders of said licenses shall keep the same displayed, and exhibit them as required in section two of this act, and provided they shall in other respects conform to the requirements of this act; and in case they shall violate any of the provisions of said section or any other provision of this act, they shall be subject to the penalties of said violations.

SEC. 12. *And be it enacted*, That all the provisions of the act entitled "An Act to revise and amend the charter of the city of Newark," approved March eleventh, eighteen hundred and fifty-seven, and any of the supplements thereto providing or in anywise relating to the election of members of the Board of Excise and their powers and duties, and all acts and parts of acts inconsistent with *any of the provisions of this act*, are hereby repealed; and this

act shall be deemed and taken to be a public act, and shall take effect immediately.

Approved March 31, 1875.

**A. SUPPLEMENT** to an act entitled "An Act to revise and amend the charter of the city of Elizabeth," approved March fourth, A.D. one thousand eight hundred and sixty-three, and the several supplements thereto.

**SECTION 1.** *Be it enacted by the Senate and General Assembly of the State of New Jersey,* That it shall not be lawful for any person or persons in the city of Elizabeth to sell any malt, fermented, vinous, or spirituous liquors of any kind in said city, or to occupy or use any saloon, restaurant, or other building or place in said city for the sale of malt, fermented, vinous, or spirituous liquors of any kind, without first taking out a license therefor from the Board of Excise of said city; and any person or persons in said city who shall sell malt, fermented, or vinous liquors of any kind, or who shall occupy or use any saloon, restaurant, or other building or place in said city for the sale of malt, fermented, or vinous liquors of any kind, without first taking out such license, shall, upon conviction thereof before any police justice of said city, for every such offence, be liable to a fine of twenty dollars, besides costs of suit; and any person or persons in said city who shall sell spirituous liquors of any kind, or who shall occupy or use any saloon, restaurant, or other building or place in said city for the sale of spirituous liquors of any kind, without first taking out such license, shall upon conviction thereof, before any police justice of such city, for every such offence, be liable to a fine of forty dollars besides costs of suit; such suits shall be conducted in the same manner as suits for the violation of ordinances of said city are conducted, and all such fines when collected shall be paid to the treasurer of the city of Elizabeth, and by him placed to the credit of the poor and alms account of said city; and it shall be the special duty of the police department of said city to enforce the provisions of this act. *Provided,* that this act shall not apply to druggists or grocers who sell such liquors or any of them for medicinal purposes or in large measures.

**SEC. 1.** *And be it enacted,* That this act shall take effect immediately and be deemed and taken to be a public act, and that all acts and parts of acts inconsistent with the provisions of this act be and the same are hereby repealed.

Approved April 9, 1875.

**An Act to regulate the sale of malt, vinous, and spirituous liquors in the township of Haddon, in the county of Camden.**

**SECTION 1.** *Be it enacted by the Senate and General Assembly of the State of New Jersey,* That it shall and may be lawful for the persons qualified to vote at town-meetings in the township of Haddon, in said county of Camden, and they are hereby required to hold an election in said township on the last Tuesday in April, one thousand eight hundred and seventy-three, at the place at which their last town-meeting was held, and determine by ballot whether any person or persons shall thereafter be licensed to utter or sell within the limits of said township any malt, vinous, spirituous, or intoxicating liquors.

**SEC. 2.** *And be it enacted,* That the officers who may be authorized by law to hold the next annual State election in said township shall conduct the election to be held in pursuance of the first section of this act; and said election shall be commenced and conducted in accordance with the provisions of, and under the penalties prescribed by, the act entitled "An Act to regulate elections," and the several supplements thereto, so far as said provisions are applicable, except that in place of the words "for members of," and so forth, in the heading of the poll-list, shall be inserted the words "to determine whether license shall be granted to sell malt, vinous, spirituous, or intoxicating liquors" in said township.

**SEC. 3.** *And be it enacted,* That each ballot to be used at said election shall have written or printed on it the word "License" or the words "No License"; and at the close of said election the votes shall be canvassed in the manner provided in sections fifty-four and fifty-five of the said act entitled "An Act to regulate elections," so far as the provisions thereof are applicable; and a certificate of the result showing the number of votes in favor of and against such license shall be signed by the board of election, and within five days thereafter be delivered to the clerk of said county of Camden, to be kept on file as a public record.

**SEC. 4.** *And be it enacted,* That the same notice shall be given of said election as is by law required to be given of the annual State election, and the officers conducting the same shall be entitled to receive the same fees as are allowed for like services in holding the annual State election, to be collected and paid in the same manner.

**SEC. 5.** *And be it enacted,* That at each second annual town-meeting or township election to be held in said township of Haddon, succeeding the election provided for in the first section of this act, the persons qualified to vote at such town-meeting or election are hereby authorized and required to vote upon the question of license or no license in the same manner in which other matters are voted on at such election, except that the ballots for this purpose shall be *separate and like unto those* prescribed in the third section of this

act, and when received shall be deposited in a separate box, similar in all respects to the ballot-box prescribed by law, and to be provided and paid for in the same way ; and at the close of said election the officers shall immediately make out and sign a certificate of the result in the mode mentioned in said third section of this act, and within five days thereafter deliver the same to the officer therein mentioned.

SEC. 6. *And be it enacted*, That if it shall appear that at any election held in said township of Haddon, pursuant to the provisions of this act, a majority of all the votes cast were for "No License," it shall not thereafter be lawful to license any person or persons to sell malt, vinous, spirituous, or intoxicating liquors within said township, until it shall be so decided by a majority of legal votes cast at some subsequent election, held as hereinbefore provided.

SEC. 7. *And be it enacted*, That from and after the passage of this act it shall not be lawful for any person or persons within said township of Haddon, without a license for that purpose first had and obtained, to sell, or cause or knowingly permit to be sold, directly or indirectly, any malt, vinous, spirituous, or intoxicating liquors, or any composition of which such liquors, or any of them, shall form the chief ingredient, except such as shall be sold to be used as a medicine, and not drunk on the premises where sold ; and that no such liquors shall be sold at any tavern, hotel, or public-house of entertainment ; and any person so offending shall be deemed guilty of a misdemeanor, and on conviction shall be fined not less than fifty nor more than one hundred dollars for the first offence, and not less than one hundred dollars for each and every subsequent offence, together with the costs of prosecution. *Provided*, that the prosecution shall be commenced within six months after the offence or offences shall have been committed.

SEC. 8. *And be it enacted*, That so much and such parts of all acts and parts of acts as are inconsistent with the provisions of this act be and the same are hereby repealed, and that this act shall take effect immediately.

Approved April 3, 1873.

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A FURTHER SUPPLEMENT to the act entitled "An Act to revise and amend the charter of the town of Orange," approved March third, one thousand eight hundred and sixty-nine.

SECTION 1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That the words "be deemed and taken to be the true and actual value thereof, and shall be added to" and contained in the fourth section of a certain supplement to said act,

which supplement was approved March seventeenth, one thousand eight hundred and seventy, be and the same are hereby repealed.

SEC. 2. *And be it enacted*, That the seventh section of a certain other supplement to said act, which supplement was approved March twenty-eighth, one thousand eight hundred and seventy-three, be and is hereby amended by repealing the words "twenty-five" and by inserting in lieu thereof the words "one hundred," and also by repealing the word "six" and inserting in the place thereof the word "twelve."

SEC. 3. *And be it enacted*, that hereafter every letter of recommendation to the collector of taxes for a license to sell ale, beer, porter, cider, or wine shall, before such license shall be granted, be published, together with the names of the signers, for at least two weeks in one of the newspapers of said city, and at the expense of such applicant.

SEC. 4. *And be it enacted*, That all acts and parts of acts inconsistent with this act be and the same are hereby repealed, and that this act is hereby declared to be a public act, and shall take effect immediately.

Approved March 26, 1874.

**AN ACT** to prevent the sale of intoxicating liquors within one mile of Ocean Grove and Asbury Park, in Monmouth County, New Jersey.

SECTION 1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That it shall not be lawful to sell, vend, or barter spirituous liquors, wine, ale, beer, or any intoxicating liquors of any kind whatsoever, within a distance of one mile from Wesley Lake Bridge, at Ocean Grove and Asbury Park, in Monmouth County, State of New Jersey, except for medicinal purposes, at regular drug-stores, and under the prescriptions of regularly practising physicians; any person or persons offending against the provisions of this act shall be deemed guilty of a misdemeanor, and fined fifty dollars and costs for each offence, said fine to be paid to the overseers of the poor for the support of the poor of the county.

SEC. 2. *And be it enacted*, That this act shall take effect immediately.

Approved February 26, 1874.

**AN ACT** making it a criminal offence to manufacture or sell, or import already manufactured for sale, any adulterated or spurious liquors in the State of New Jersey.

SECTION 1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That if any person or persons shall manufacture,

or import already manufactured, or barter or sell, or keep in his possession for barter or sale, any rum, brandy, wine, or spirits of any kind, or any other liquid of which distilled spirits shall form a component part, to be used as a beverage, that shall be adulterated or manufactured with spurious or poisonous ingredients of any description, the person or persons so offending shall be adjudged guilty of a misdemeanor, and, on conviction, shall be punished by fine not exceeding one thousand dollars, or imprisonment at hard labor for any term not exceeding two years, or both, at the discretion of the court.

SEC. 2. *And be it enacted*, That if any person or persons shall adulterate, mix, compound, or poison any malt liquors, with intent to barter or sell the same, or to mix, compound, or poison any malt or vinous or spirituous liquors the one with the other, or in any way whatever, or give, barter, or sell the same, with intent to make greater profit, or with intent to produce intoxication or stupefaction, every person or persons so offending shall be adjudged guilty of a misdemeanor, and on conviction shall be punished by fine not exceeding five hundred dollars, or imprisonment at hard labor for any term not exceeding one year, or both, at the discretion of the court.

SEC. 3. *And be it enacted*, That this act shall take effect immediately.

[Approved April 6, 1871.]

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SECTIONS 60, 61, 62, AND 63 OF "AN ACT FOR THE PUNISHMENT OF CRIMES."—REVISION APPROVED MARCH 27, 1874.

SEC. 60. It shall not be lawful for any person or persons, without license for that purpose first had and obtained, to sell, or cause or knowingly permit to be sold, directly or indirectly, any wine, rum, gin, brandy, whiskey, cider-spirits, or other ardent spirits, or any composition of which any of the said liquors shall form the chief ingredient, except such as shall be compounded and intended to be used as medicine, by less measure than one quart, or any mixed liquors by less measure than five gallons; and any person so offending shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not exceeding twenty dollars, together with the costs of the prosecution. *Provided*, That the prosecution shall be commenced within six months after the offence shall have been committed: and *provided* also, that nothing in this act shall be construed or taken to prohibit any person or persons *from selling* metheglin, currant-wine, or other wine or cider made *by him, her, or them*.

SEC. 61. The licenses granted under the authority of this State to keep inns and taverns shall not be construed to authorize the sale of any vinous, spirituous, fermented, or other intoxicating liquors upon the Sabbath, commonly called Sunday; and all persons offending herein shall be subject to all the penalties and liabilities of the persons selling liquor without license, as specified in the statute of this State entitled "An Act concerning inns and taverns," and shall likewise be subject to the forfeiture of the license, at the discretion of the court before whom conviction is had; and, further, if any person shall offer or expose for sale on the said day any spirituous, vinous, fermented, or other intoxicating liquors, such person so offending shall be deemed guilty of a misdemeanor, and on conviction thereof shall be punished by fine not exceeding twenty dollars, together with the costs of prosecution.

SEC. 62. It shall not be lawful for any sheriff, under-sheriff, jailer, or other person whatever, to sell, or knowingly permit to be sold, in any of the court-houses or jails of this State, any wine, gin, whiskey, cider-spirits, brandy, or ardent spirits, or any composition of which any of said liquors shall form the chief ingredient; and in case any sheriff shall so offend, he shall be deemed guilty of a high misdemeanor, and on conviction thereof shall be fined in the sum of one hundred dollars, together with costs of prosecution; and if any under-sheriff, jailer, or other person shall so offend, he shall be deemed guilty of a misdemeanor, and on conviction thereof be fined in the sum of one hundred dollars, together with costs of prosecution.

SEC. 63. If any person shall sell, or offer to sell, or expose for sale, within the limits of any city, precinct, town, township, or other municipality within this State, any spirituous, vinous, or malt liquors, ale, beer, or cider, on any day upon which any election, either general, special, or municipal, shall be held in said city, precinct, town, township, or other municipality, between sunrise in the morning and sunset in the evening, he shall be deemed guilty of a misdemeanor, and shall, on conviction thereof, be punished by a fine not exceeding one hundred dollars, or imprisonment in the county jail not exceeding thirty days, or both.

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SECTION 133 OF "AN ACT TO REGULATE ELECTIONS."

SECTION 133. *And be it enacted*, That it shall be the duty of all sheriffs, under-sheriffs, police officers, and constables, on any such election day, between sunrise in the morning and sunset in the evening, to arrest, without warrant, all persons who shall be found by *them in the actual violation* of any of the provisions of section sixty-

three of "An Act Concerning Crimes," and take such persons, when arrested, before some justice of the peace of the county in which such arrest shall be made, to be dealt with by said justice according to law; and it shall be the further duty of such sheriffs, undersheriffs, police officers, and constables to effectually close up all places where they shall have good reason to believe any spirituous, vinous, malt liquors, ale, beer, or cider are being sold, or offered or exposed for sale or given away, and keep the same effectually closed up till after sunset on such election day.

[Approved April 18, 1876.]

#### CHAPTER CXLIX.

**AN ACT** concerning the granting of licenses to sell strong and spirituous liquors, wine, ale, and beer within limits of incorporated cities.

**SECTION 1.** *Be it enacted by the Senate and General Assembly of the State of New Jersey,* That in each and every city in this State, whose charter or its supplements provide that all licenses for the sale of strong and spirituous liquors, wine, ale, and beer, within the limits of such city, shall be granted by a board of excise commissioners, consisting of resident freeholders of such city, nominated by the mayor and confirmed by the common council of such city, all licenses hereafter granted by such board of excise commissioners for the sale of ale, beer, and light wines, as hereinafter provided, shall expire on the first day of July next succeeding the granting of any such license.

**SEC. 2.** *And be it enacted,* That the license fee to be hereafter charged by such board of excise commissioners for selling strong and spirituous liquors, wines, ale, and beer, shall be not exceeding seventy-five nor less than fifty dollars, and that the license fee for the sale of ale, beer, and light wines shall not exceed twenty-five nor be less than fifteen dollars, for the term of one year from the date of any such license; that such board of excise commissioners shall grant licenses for the sale of strong and spirituous liquors, wine, ale, and beer, or for the sale of ale, beer, and light wines for any part of a year, not less than one month next preceding the first day of July, every such license so granted to expire as provided in the first section of this act; that the license fee to be charged and assessed by such board of excise commissioners for the sale of strong and spirituous liquors, wine, ale, and beer, for a less time than one year, shall be at the rate of not more than seven nor less than four dollars a month for each month of the unexpired year; that the license fee for the sale of ale, beer, and light wine for a less time than one year

shall be at the rate of not more than three nor less than one and a half dollars a month for each month of the unexpired year ; and that all fees for license shall hereafter accompany any and all applications for license, such fee to be returned to the person or persons applying for license in all cases where applications for license are refused by such board of excise commissioners.

SEC. 3. *And be it enacted*, That any such board of excise commissioners may at their option transfer any license by them granted to any person or persons, or any other person or persons who shall apply to them for such transfer. *Provided*, that such board of excise commissioners shall be satisfied that any such person or persons are of good moral character, and upon the payment of a transfer fee of three dollars ; that any transfer of license shall be written or printed upon the face of any such license, and any such transfer shall entitle and authorize any person or persons to continue at the same place of business the sale of strong and spirituous liquors, wine, ale, and beer, or ale, beer, and light wines, as provided and mentioned in any and every of licenses respectively.

SEC. 4. *And be it enacted*, That whoever shall sell any strong or spirituous liquors, wines, ale, or beer, in quantities less than five gallons at a time, at any place within such incorporated city, without having a license therefor granted by such board of excise commissioners, shall on conviction thereof, according to the form of the statute in that behalf made and provided, forfeit and pay such sums as may be fixed by the special police justice before whom such conviction shall be had. *Provided*, the amount of such forfeiture or fine for any one violation of the provisions of this act shall not exceed the sum of fifty dollars.

SEC. 5. *And be it enacted*, That all acts or parts of acts inconsistent with any of the provisions of this act, concerning all incorporated cities mentioned in the first section of this act, be and the same are hereby repealed, and this act shall take effect immediately. *Provided*, that the provisions of this act shall not apply to any city having by the last census less than one hundred thousand inhabitants.

[Approved March 9, 1877.]

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ASSEMBLY, No. 381.

AN ACT to regulate the sale of malt, vinous, and spirituous liquors in the township of Chatham in the county of Morris.

SECTION 1. *Be it enacted by the Senate and General Assembly of the State of New Jersey*, That it shall and may be lawful for the persons qualified to vote at town meetings in the township of Chatham in said

county of Morris, and they are hereby required, to hold an election in said township on the second Tuesday in June next, at the place at which their last town meeting was held, and determine, by ballot, whether any person or persons shall thereafter be licensed to offer or sell, within the limits of said township, any malt, vinous, spirituous, or intoxicating liquors.

SEC. 2. *And be it enacted*, That the officers who may be authorized by law to hold the next annual State election in said township shall conduct the election to be held in pursuance of the first section of this act ; and said election shall be commenced and conducted in accordance with the provisions of, and under the penalties prescribed by, the act entitled "An Act to regulate elections," and the several supplements thereto, so far as said provisions are applicable, except that in place of the words "for members of," etc., in the heading of the poll-list, shall be inserted the words "to determine whether license shall be granted to sell malt, vinous, spirituous, or intoxicating liquors" in said township.

SEC. 3. *And be it enacted*, That each ballot to be used at said election shall have written, or printed, on it the word "License," or the words "No license" ; and at the close of said election the votes shall be canvassed in the manner provided in sections fifty-four and fifty-five of the said act entitled "An Act to regulate elections," so far as the provisions thereof are applicable ; and a certificate of the result, showing the number of votes in favor of and against such license, shall be signed by the board of election, and within five days thereafter be delivered to the clerk of the said county of Morris, to be kept on file as a public record.

SEC. 4. *And let it enacted*, That the same notice shall be given of said election as is by law required to be given of the annual State election, and the officers conducting the same shall be entitled to receive the same fees as are allowed for like services in holding the annual State election, to be collected and paid in the same manner.

SEC. 5. *And be it enacted*, That at each second annual town meeting or township election to be held in said township of Chatham, succeeding the election provided for in the first section of this act, the persons qualified to vote at such town meeting or election are hereby authorized and required to vote upon the question of license or no license, in the same manner in which other matters are voted on at such election, except that the ballots for this purpose shall be separate and like unto those prescribed in the third section of this act, and when received shall be deposited in a separate box similar in all respects to the ballot-box prescribed by law, and to be provided and paid for in the same way ; and at the close of said election the officers shall immediately make out and sign a certificate of the result in the mode mentioned in said third

section of this act, and within five days thereafter deliver the same to the officer therein mentioned.

SEC. 6. *And be it enacted*, That if it shall appear that at any election held in said township of Chatham, pursuant to the provisions of this act, a majority of all the votes cast were for "no license," it shall not thereafter be lawful to license any person or persons to sell malt, vinous, spirituous, or intoxicating liquors within said township, until it shall be so decided by a majority of legal votes cast at some subsequent election held as hereinbefore provided.

SEC. 7. *And be it enacted*, That from and after the passage of this act it shall not be lawful for any person or persons within said township of Chatham, without a license for that purpose first had and obtained, to sell or cause or knowingly permit to be sold, directly or indirectly, any malt, vinous, spirituous, or intoxicating liquors, or any composition of which such liquors, or any of them, shall form the chief ingredient, except such as shall be compounded to be used as a medicine, by less measure than one gallon, or any of any such liquors in any quantity to be drunk on the premises where sold ; and any person so offending shall be deemed guilty of a misdemeanor, and, on conviction, shall be fined not less than fifty nor more than one hundred dollars for the first offence, and not less than one hundred dollars for each and every subsequent offence, together with costs of prosecution. *Provided*, that the prosecution shall be commenced within six months after the offence or offences shall have been committed.

SEC. 8. *And be it enacted*, That so much and such parts of all acts and parts of acts as are inconsistent with the provisions of this act be and the same are hereby repealed ; and that this act shall take effect immediately.

Approved April 6, 1871.

## LOCAL OPTION—SUPREME COURT DECISION.

A "local-option" law was passed for Chatham in Morris County, and a majority voted "No license." An appeal was taken to the Supreme Court, which rendered a decision deciding it constitutional. This decision is considered of great importance, inasmuch as Attorney-General Gilchrist had previously rendered an opinion that it was unconstitutional. The following extracts are from the *opinion* of the Supreme Court.

1. *The Chatham local-option law declared the retail of ardent*

spirits without license to be unlawful, and provides that no license shall be granted if a majority vote of the township is for no license. Held that the act is constitutional.

2. That the Legislature, under the power to make police regulations, may prohibit the retail of alcoholic stimulants.

3. That municipal corporations and townships may be invested with authority to regulate or prohibit the retail of intoxicating drinks.

This application is made to test the constitutionality of what is termed the Chatham Local-Option Law.

The provisions of the act (Laws, 1871, page 1470) are substantially that it should be lawful for the persons qualified to vote at the next annual town-meeting to determine by ballot whether, thereafter, licenses to sell spirituous liquors should be granted; that, if it should appear that a majority of votes were cast for "No license," it should not thereafter be lawful to grant any such license until otherwise decided by contrary vote at some subsequent town-meeting; that from and after the passage of the act it should not be lawful for any person within said township, without a license for that purpose first had, to sell by less measure than one gallon, and any person so selling without license should be adjudged guilty of a misdemeanor; and, lastly, that so much and such parts of all acts and parts of acts as are inconsistent with this act be and are repealed.

The local-option law is alleged to be in conflict with that article of our State constitution which provides that the legislative power shall be vested in the Senate and General Assembly.

The test will be whether this enactment, when it passed from the hands of the lawgiver, had taken the form of a complete law. It denounces as a misdemeanor the selling of liquor without a license; so far it is positive and free from any contingency.

It left to the popular vote to determine not whether it should be lawful to sell without license, but whether the contingency should arise under which license might be granted.

It was not submitted to the voters of Chatham to say whether there should be a majority vote in favor of the license before license could be granted; the law as framed declares there shall be such majority vote. The operations of the first and second sections of the act "concerning inns and taverns" are not suspended by the declaration of the popular will, but the act itself modifies those sections, and makes it a condition of granting license that there shall be a majority vote.

It is the law which makes the majority vote necessary and not the vote of the people.

The right of the Legislature to grant the power of local government to municipalities is conceded; and it is immaterial whether the enactment conferring it is regarded as a declaration of the supreme legislative will and strictly a law, or merely as a concession of a grant by the Legislature, as the representatives of the sovereignty of the people.

Such legislation has become so woven into our system of government, and its exercise as an appropriate function of the lawgiver, has passed so long unchallenged, and has been so repeatedly recognized by the courts, that it cannot be permitted now to be called in question.

While alcoholic stimulants are recognized as property, and entitled to the protection of law, ownership in them is subject to such restraints as are demanded by the highest considerations of public expediency. Such enactments are regarded as police regulations, established for the prevention of pauperism and crime, for the abatement of nuisances, and the promotion of public health and safety. They are a just restraint of an injurious use of property which the Legislature has authority to impose, and the extent to which such interference may be carried must rest exclusively in legislative wisdom, where it is not controlled by fundamental law. It is a settled principle, essential to the rights of self-preservation in every organized community, that, however absolute may be the owner's title to his property, he holds it under the implied condition "that its use shall not work injury to the equal enjoyment and safety of others who have an equal right to the enjoyment of their property, nor be injurious to the community."

Rights of property are subject to such limitations as are demanded by the common welfare of society, and it is within the range and scope of legislative action to declare what general regulations shall be deemed expedient.

If, therefore, the Legislature shall consider the retail of ardent spirits injurious to citizens or productive of idleness and vice, it may provide for its total suppression. Such inhibition is justified only as a police regulation, and its legality has been recognized in well-considered cases.

It necessarily results that municipal corporations may derive the power to interdict the sale of intoxicating drinks from the same source to which they owe their authority to regulate it. The

grant of power to prohibit the sale is no more the delegation of a right to make law than the grant of authority to regulate it.

Assuming this proportion, how may such authority be exercised by the corporate body?

Obviously, the only limitation must be contained in the terms of the grant itself, in the absence of any constitutional restraint. It is wholly immaterial how the power is exercised, so long as it is in the mode appointed by the superior. In establishing the local government, the power may, at the discretion of the Legislature, be lodged in the people to make rules for the regulation of their internal police by their direct vote in mass-meeting assembled, or through designated officials by themselves duly elected. It would, therefore, be within the province of the Legislature to confer upon a city the right, by a majority vote of its inhabitants, to pass ordinances for the regulation or suppression ~~at the retail trade~~ in ardent spirits.

## PENNSYLVANIA.

PENNSYLVANIA has a license law of twelve sections, approved April 12, 1875.

The first section repeals the local-option law, which allowed the voters of the commonwealth to vote every three years on the question of granting licenses. The County Court of Quarter Sessions is empowered to grant licenses, hear objections, etc. The license fee is graduated according to the quantity of liquors sold yearly. Penalties are provided for violations of the law. Injured parties may collect damages of liquor-sellers. The sale of liquors is prohibited on Sundays, to minors, and to "a person visibly affected by intoxicating drinks."

### PROHIBITION ON ELECTION-DAY.

THE following was enacted in 1872 :

*Be it enacted, etc.,* That, from and after the passage of this act, it shall not be lawful for any person or persons keeping a public-house or drinking-place, either licensed or unlicensed, to sell spirituous or malt liquors, wine, or any other intoxicating beverages, on any part of any day set apart, or to be set apart, for any general or special election, by the citizens in any election district or division within this commonwealth, where an election is in progress, during the hours when by law in said district the election *polls are required to be kept open.*

## KENTUCKY.

THE following is the bill to "regulate the sale of spirituous or vinous liquors" in the State:

"SECTION 1. *Be it enacted by the General Assembly of the Commonwealth of Kentucky,* That it shall be the duty of the judge of the county court in each county of this commonwealth, upon a written petition signed by at least twenty of the legal voters in any civil district, town, or city in his county, to make an order on his order-book, at the next regular term of his court after he receives said petition, directing the sheriff, or other officer whose duty it may be to hold the election, to open a poll in said district, town, or city at the next regular State, town, city, or county election held therein, for the purpose of taking the sense of the legal voters in the said district, town, or city upon the proposition whether or not spirituous, vinous, or malt liquors shall be sold therein.

"SEC. 2. It shall be the duty of the county court clerk to give to the sheriff, or other officer whose duty it shall be to hold the election mentioned in Section 1 of this act, a certified copy of the order of the judge of the county court, as it appears on his order-book, within ten days after said order is made.

"SEC. 3. It shall be the duty of the sheriff, or other officer whose duty it may be to hold the election mentioned in Section 1 of this act, to have the order of the judge of the county court published in some weekly or daily paper published in the county, for at least two weeks before the election; and also to advertise the same by printed or written handbills posted at five conspicuous places in said district, town, or city for the same length of time; and if there is no daily or weekly newspaper published in the county, the printed or written handbills posted as before provided for shall be sufficient notice. The sheriff, or other officer whose duty it shall be to hold the election mentioned in Section 1, shall have the advertisement and notices herein provided for posted, *as above* provided for, within ten days after he receives the order of the county judge, and twenty days before the election.

"SEC. 4. It shall be the duty of the sheriff, or other officer of whose duty it may be to hold the election mentioned in Section 3 of this act, to open a poll, and the election officers shall propose to each voter who may vote the question: 'Are you in favor of the sale of spirituous, vinous, or malt liquors in this district, town or city?' and his vote shall be entered for or against it, as he directs. The poll shall be returned as the other polls in said election, shall be examined and compared by the same officers.

"SEC. 5. If it shall be found that a majority of the legal votes cast at the election before provided for were given against the sale of spirituous, vinous, or malt liquors in the district, town, or city, it shall be the duty of the Examining Board to certify that fact, which certificate shall be delivered to the clerk of the county court, and by him safely kept until the next regular term of the county court, at which term the judge thereof shall have the same spread on the order-book of his court, and said entry of the certificate in the order-book, or a certified copy thereof, shall be *prima facie* evidence in all proceedings under this act.

"SEC. 6. After the entry of the certificate of the Examining Board, as above provided, in the order-book of the county court, it shall be unlawful for any person to sell any spirituous, vinous, or malt liquors in the said district, town, or city to any person; and any person who sells any such liquors in said district, town, or city shall, upon conviction, be fined the sum of not less than twenty-five dollars nor more than one hundred dollars for each offence.

"SEC. 7. The provisions of this act shall not apply to any manufacturer or wholesale dealer who, in good faith and in the usual course of trade, sells by the wholesale, nor to druggists who sell for medical purposes on a prescription made and signed by a regular practising physician; but no physician shall make or sign any such prescription, except the person for whom it is made is actually sick, and such liquor is absolutely required as a medicine; and any physician who makes or signs any prescription for such liquors, except as provided for in this act, shall be guilty of a violation of this act, and, on conviction, fined twenty-five dollars for each offence.

"SEC. 8. The county judge shall not make the order for the election until the persons signing the petition have deposited with him, in money, an amount sufficient to pay for printing or posting *advertisements* as provided for, and the fees of the clerk for *making entries on the order-book*, and other legal fees.

"Sec. 9. The election herein provided for shall not be held oftener than every two years; and in towns, cities, and districts where an election for the purpose and intention of this bill has already been held, no other election shall be ordered until two years from said election.

"Sec. 10. This act shall take effect from its passage."

## OHIO.

THIS State has a prohibitory clause in its Constitution. -- Section 18 of Article 16 of the Constitution reads as follows:

“ No license to traffic in intoxicating liquors shall hereafter be granted in the State, but the General Assembly may by law provide against evils resulting therefrom.”

## CIVIL DAMAGE LAW.

**AN ACT TO PROVIDE AGAINST THE EVILS RESULTING FROM THE SALE OF INTOXICATING LIQUORS IN THE STATE OF OHIO.**  
PASSED MAY 1, 1854.

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be unlawful for any person or persons, by agent or otherwise, to sell in any quantity intoxicating liquors to be drunk in, upon, or about the building or premises where sold, or to sell such intoxicating liquors to be drunk in any adjoining room, building, or premises, or other place of public resort connected with said building.

Sec. 2. That it shall be unlawful for any person or persons, by agent or otherwise, to sell intoxicating liquors to minors, unless upon the written order of their parents, guardians, or family physician.

Sec. 3. That it shall be unlawful for any person or persons, by agent or otherwise, to sell intoxicating liquors to persons intoxicated, or who are in the habit of getting intoxicated.

Sec. 4. That all places where intoxicating liquors are sold in violation of this act shall be taken, held, and declared to be common nuisances, and all rooms, taverns, eating-houses, restaurants, groceries, coffee-houses, cellars, or other places of public resort, where intoxicating liquors are sold in violation of this act, shall be shut up and abated as public nuisances, upon the conviction of the keepers thereof, who shall be punished as hereinafter provided.

Sec. 5. *(As amended and took effect April 5, 1859.)* That it shall be unlawful for any person to get intoxicated, and every person found in a state of intoxication shall, upon conviction thereof, be fined in the sum of five dollars, and pay the costs of the prosecution.

SEC. 6. That every person who shall, by the sale of intoxicating liquors contrary to this act, cause the intoxication of any other person, such person or persons shall be liable for, and compelled to pay a reasonable compensation to, any person who may take charge of and provide for such intoxicated person, and one dollar per day in addition thereto for every day such intoxicated person shall be kept, in consequence of such intoxication, which sums may be recovered in a civil action before any court having jurisdiction thereof.

SEC. 7. (*As amended and took effect July 4, 1870.*) That every husband, wife, child, parent, guardian, employer, or other person who shall be injured in person or property or means of support by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, such wife, child, parent, guardian, employer, or other person shall have a right of action in his or her own name, severally or jointly, against any person or persons who shall, by selling or giving intoxicating liquors, have caused the intoxication, in whole or in part, of such person or persons; and the owner of, lessee, or person or persons renting or leasing any building or premises, having knowledge that intoxicating liquors are to be sold therein in violation of law, or having leased the same for other purposes, shall knowingly permit intoxicating liquors to be so sold in such building or premises that have caused the intoxication, in whole or in part, of such person or persons, shall be liable, severally or jointly, with the person or persons selling or giving intoxicating liquors aforesaid, for all damages sustained, as well as exemplary damages; and a married woman shall have the same right to bring suits, and control the same, and the amount recovered, the same as if a *femme sole*; and all damages recovered by a minor under this act shall be paid either to such minor, or to his or her parent, guardian, or next friend, as the court shall direct; and the unlawful sale or giving away of intoxicating liquors shall work a forfeiture of all rights of the lessee or tenant under any lease or contract of rent upon premises where such unlawful sale or giving away shall take place; and all suits for damages under this act shall be by a civil action in any of the courts of this State having jurisdiction thereof.

SEC. 8. (*As amended and took effect April 5, 1859.*) That for every violation of the provisions of the first, second, and third sections of this act every person so offending shall forfeit and pay a fine of not less than five nor more than fifty dollars, or be imprisoned in the jail of the county for not less than ten nor more

than thirty days, or both of them, at the discretion of the court, and shall pay the costs of prosecution; and, for every violation of the provisions of the fourth section of this act, every person convicted as the keeper of any places therein declared to be nuisances, shall forfeit and pay a fine of not less than fifty nor more than one hundred dollars, or be imprisoned in the jail of the county for not less than twenty nor more than fifty days, or both, at the discretion of the court, and pay the costs of prosecution, and such place or places so kept by such person or persons so convicted shall be shut up and abated upon the order of the court before whom such conviction may be had, until such time as such person or persons keeping such place or places shall give bond and security to the acceptance of said court, in the penal sum of one thousand dollars, payable to the State of Ohio, conditioned that he or they will not sell intoxicating liquors contrary to the laws of the State, and will pay all fines, costs, and damages assessed against such keeper or keepers for every violation thereof, and, in case of forfeiture of such bond, suits may be brought thereon for the use of any person interested, or for the use of the county, in case of a fine or costs due such county. *Provided*, That the provisions of the first and fourth sections of this act shall not extend to the sale of the wine manufactured of the pure juice of the grape cultivated in this State, or beer, ale, or cider.

SEC. 9. That the giving away of intoxicating liquors, or other shift or device to evade the provisions of this act, shall be deemed and held to be unlawful selling within the provisions of this act.

SEC. 10. (*As amended and took effect July 4, 1870.*) For all fines, costs, and damages assessed against any person or persons in consequence of the sale of intoxicating liquors, as provided in section seven of this act, and the act to which this is amendatory, the real estate and personal property of such person or persons, of every kind, without exception or exemption, except under the act to amend an act entitled "An Act to regulate judgment and executions at law," passed March 1, 1831, passed March 9, 1840, took effect March 15, 1840 (S. & C. 1143), shall be liable for the payment thereof; and such fines, costs, and damages shall be a lien upon such real estate until paid; and, in case any person or persons shall rent or lease to other or others any building or premises to be occupied, in whole or in part, for the sale of intoxicating liquors, or shall permit the same to be so used and occupied, in whole or in part, such building or premises so leased, used, or occupied shall be held for and may be sold to pay all fines, costs, and damages as-

sesed against any person or persons occupying such building or premises; and proceedings may be had to subject the same to the payment of any such fine and costs assessed or judgment recovered which remained unpaid, or any part thereof, either before or after execution shall issue against the property of the person or persons against whom such fine and costs or judgment shall have been adjudged or assessed; and, when execution shall issue against the property so leased or rented, the officer shall proceed to satisfy said execution out of the building or premises so leased or occupied as aforesaid; and, in case such building or premises belong to a minor, insane person, or idiot, the guardian of such minor, insane person, or idiot who has control of such building or premises shall be liable and account to his or her ward for all damages on account of such use and occupation of such building or premises, and the liabilities for the fines, costs, and damages aforesaid; and all contracts whereby any building or premises shall be rented or leased, and the same shall be used or occupied, in whole or in part, for the sale of intoxicating liquors, shall be void, and the [lessee] person or persons renting or leasing said building or premises shall, on and after the selling or giving intoxicating liquors as aforesaid, be considered and held to be in possession of said buildings or premises.

SEC. 11. That all prosecutions under this act shall be in the name of the State of Ohio, and shall be commenced upon a written complaint, under oath or affirmation, before any justice of the peace of the county in which said offence was committed, or mayor of any incorporated town, village, or city, or by information or indictment, as may be provided by law, for the prosecution of offences, the punishment of which is not capital or imprisonment in the penitentiary; and, upon the filing of such complaint with such justice of the peace or mayor, as aforesaid, such justice of the peace or mayor shall forthwith issue a warrant directed to the proper officer, for the arrest of the person or persons charged with a violation of the provisions of this act, and such officer shall forthwith arrest the person or persons named in said warrant, and bring him or them before the justice of the peace or mayor issuing said warrant; and, upon the return of said warrant served, such justice of the peace or mayor shall proceed to enquire into the truth of such complaint, unless, for good causes shown, a continuance is granted at the instance of either party; and, in case of the continuance of said action as aforesaid, the defendant or defend-

ante shall enter into a recognizance to the State of Ohio, in such sum as the justice of the peace or mayor may deem reasonable, with security to the acceptance of such justice or mayor, conditioned for the appearance of said defendant or defendants at the time fixed for the hearing of said complaint; and, in default such defendant or defendants giving such recognizance as aforesaid, the defendant or defendants shall be committed to the jail of the county, to be safely kept until the time fixed for the hearing of said complaint; and, if the parties so recognized shall not appear at the time set for said trial, the recognizance so given by him or them shall be forfeited by such justice of the peace or mayor, and such officer shall enter such forfeiture upon said recognizance, and also upon his docket, and thereupon such justice or mayor shall forthwith proceed to collect the penalty of said recognizance, by instituting an action thereon, and proceeding with the same to final judgment, and, when the same is collected, after paying the costs of such collection, such justice or mayor shall pay over the balance to the township, city, or incorporated village treasury, for the support of common schools; and, in all cases of prosecution before justices of the peace or mayors, if such officer finds the complaint to be true, he shall recognize such defendant or defendants to answer said charge, as in other criminal prosecutions of like grades, provided that, if such defendant or defendants shall plead guilty, such officer may affix the penalty, and proceed to judgment; and, in such case, said officer shall immediately issue an execution against the property and body of the defendant for the fine and costs, unless paid or secured, and said defendant shall not be discharged until said judgment and costs shall be fully paid or secured to be paid.

SEC. 12. The following form of complaint shall be sufficient in criminal proceedings before justices of the peace or mayors, under this act, when applicable, but may be varied to suit the nature of the case, namely:

State of Ohio, County, ss. Before me, A. B. (a justice of the peace of said county, or mayor of, etc., as the case may be), personally came C. D., who, being duly sworn according to law, deposeth and saith that, on or about the day of in the year at the county of aforesaid, E. F. did sell intoxicating liquors to one G. H., to be drunk in the place where sold (or to G. H. a minor, etc.), or to a person intoxicated, or in the habit of getting intoxicated, as the case may be, where

intoxicating liquors are sold in violation of law, and further saith not.

(Signed)

C. D.

Sworn to and subscribed before me, {  
this day of A. D.

A. B., Justice, or Mayor, etc.

SEC. 13. In all prosecutions under this act, by indictment or otherwise, it shall not be necessary to state the kind of liquors sold, or to describe the place where sold, and for any violation of the fourth section it shall not be necessary to state the name of any person to whom sold; and in all cases the person or persons to whom intoxicating liquors shall be sold in violation of this act, shall be competent as witnesses to prove such fact or any other tending thereto.

**AN ACT SUPPLEMENTARY TO AN ACT ENTITLED "AN ACT TO PROVIDE AGAINST THE EVILS RESULTING FROM THE SALE OF INTOXICATING LIQUORS IN THE STATE OF OHIO," PASSED MAY 1, 1864. (PASSED AND TOOK EFFECT APRIL 5, 1866.)**

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That it shall be unlawful for any person or persons to buy for or furnish to any person who is at the time intoxicated, or in the habit of getting intoxicated, or to buy for or furnish to any minor, to be drunk by such minor, any intoxicating liquors whatsoever, unless given by a physician in the regular line of his practice.

SEC. 2. That for every violation of the provisions of the first section of this act, every person so offending shall, upon conviction thereof, forfeit and pay a fine of not less than ten nor more than one hundred dollars, or be imprisoned in the jail of the county for not less than ten nor more than thirty days, or both of them, at the discretion of the court, and shall pay the costs of the prosecution.

**AN ACT REGULATING TAVERNS, AND REPEALING CERTAIN ACTS THEREIN NAMED. (PASSED AND TOOK EFFECT FEB. 27, 1867.)**

SECTION 1. *Be it enacted by the General Assembly of the State of Ohio*, That if any tavern keeper shall permit or allow any kind of rioting or revelling, intoxication, or drunkenness in his house or on his premises, every such tavern keeper shall, for every such offence, on conviction, be fined not less than five nor more than one hundred dollars.

## MICHIGAN.

Michigan has a "Liquor Tax Law," of which the following is the full text, as amended by the Legislature of 1877:

*The People of the State of Michigan enact*, That sections one, three, four, five, six, seven, eight, nine, ten, eleven, twelve, fourteen, and seventeen of the said act No. 228 of the session laws of 1875, shall be and the same are amended so that said sections shall be and read as follows:

SEC. 1. In all townships, cities, and villages of this State there shall be annually levied and collected the following tax upon the business of manufacturing, selling, or keeping for sale by all persons whose business in whole or in part consists in selling or keeping for sale, or manufacturing distilled or malt liquors, or mixed liquors, as follows: Upon the business of selling or offering for sale spirituous or intoxicating liquors, or mixed liquors by retail, or any patent medicine, mixture, or compound which in whole or in part consists of spirituous or intoxicating liquors, the sum of one hundred and fifty dollars per annum; upon the business of selling or offering for sale by retail any malt, brewed, or fermented liquors, fifty dollars per annum; upon the business of selling brewed or malt liquors at wholesale, or at wholesale and retail, one hundred dollars per annum; upon the business of selling spirituous or intoxicating liquors at wholesale, or at wholesale and retail, three hundred dollars per annum; upon the business of manufacturing brewed or malt liquors for sale, if the quantity manufactured be over five barrels and does not exceed fifteen hundred barrels, fifty dollars; if over fifteen hundred barrels, and not exceeding five thousand barrels, one hundred dollars; if five thousand barrels or over, the sum of two hundred dollars per annum; upon the business of manufacturing for sale spirituous or intoxicating liquors, three hundred dollars. No person paying a tax on spirituous or intoxicating liquors under this act shall be liable to pay any tax on the sale of malt, brewed, and fermented liquors. No person paying a manufacturer's tax on brewed or malt liquors under this act shall be liable to pay a wholesale dealer's tax on the same.

SEC. 2. *Retail dealers of spirituous and intoxicating liquors and*

brewed, malt, and fermented liquors shall be held and deemed to include all persons who sell by the drink, and in quantities of five gallons or less, or one dozen quart bottles or less, at any one time to any one person. Wholesale dealers shall be held and deemed to mean and include all persons who sell, or offer to sell, such liquors and beverages in quantities of five gallons or over one dozen quart bottles at any one time to any one person. No tax imposed under this act shall be levied or collected from any person for selling any wine or cider made from fruits grown or gathered in this State. No druggist shall be liable to pay any tax herein imposed who sells liquors for medicinal, chemical, mechanical, and sacramental purposes only.

SEC. 3. The taxes herein provided for shall be assessed, levied, and collected by the same officers, and in the same time and manner, as the taxes upon personal property, except as herein otherwise provided. But no person shall engage in any business mentioned in this act until he has first notified, in writing, the assessing officer whose duty it would be to assess the tax herein above provided to be levied on such business, that he intends to commence the same (naming the time when, and the place where); nor until he has also paid to the county treasurer of the proper county the full amount of the tax therefor required by this act to be applied by such county treasurer to the payment of said tax whenever the tax-roll therefor shall come to his hands. And any person violating the foregoing shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by fine not exceeding one hundred dollars and costs of prosecution, and on failure to pay such fine and costs shall be imprisoned not exceeding ninety days. *Provided*, nothing herein contained shall be construed to exempt any species of property from taxation under the general laws, and all annual taxes herein provided for shall be for the year commencing on the first day of May, and shall be deemed payable and due at the time of the delivery of the assessment roll to the county treasurer, as herein-after provided.

SEC. 4. The assessor of every township, ward, city, or village shall, on or before the third Monday of May in each year, enquire and ascertain the name of every person, corporation, association, company, or copartnership engaged in carrying on any business mentioned in the first section of this act; and he shall enter in a roll, to be made by him, the name of every such person, corporation, association, company, or copartnership, and the place of doing business, the kind of business carried on, and the amount of tax to be paid, according to the provisions of this act. And he shall, before the first Wednesday after the third Monday in May, notify each per-

son, corporation, association, company, or copartnership whose names have been entered on said roll of said entry; such notice to be verbal, printed, or written.

SEC. 5. On the first Wednesday after the third Monday in May it shall be the duty of the assessor to be present at his office from ~~eight~~ o'clock in the forenoon until twelve o'clock noon, and from ~~one~~ o'clock in the afternoon until five o'clock in the afternoon, for the purpose of reviewing such assessment-roll, and so on the next two following days; and on the request of any person, corporation, company, or copartnership, his, its, or their agents or attorney considering themselves aggrieved, on sufficient cause being shown to the satisfaction of such assessor, he shall alter such assessment in such manner as may be necessary in order to conform to the provisions of this act; and he shall also, upon sufficient cause being shown by any credible person, add to said roll the name of any other person, corporation, association, company, or copartnership engaged in any business liable to be taxed under the provisions of this act, the kind of business, and the amount of tax to be paid according to the provisions of this act; and the said assessor shall receive two dollars per day for each day's service performed under this act, and for travelling in making such service, on the usual travelled route, ten cents per mile for going only, to be computed from the office of the assessor making such service, and the like travelling fees for making his return to the county treasurer, to be audited and allowed by the township board, the village trustees, or the common council, and paid out of the contingent funds of said township, village, or city.

SEC. 6. When said assessor has reviewed and completed his roll, it shall be his duty to attach thereto, signed by him, a certificate which may be in the following form: "I do hereby certify that I have set down in the above assessment-roll all the places where the business of manufacturing, selling, or offering for sale spirituous or intoxicating liquors, wine, brewed or malt liquors, or any patent medicine, mixture, or compound which in whole or in part consists of spirituous or intoxicating liquors, is being carried on, together with the name of the corporation, person, association, company, or copartnership engaged in such business, and the particular kind of business in which each is so engaged, according to my best information and belief." And on or before the first Monday of June he shall attach to such assessment-roll a warrant, under his hand, commanding the county treasurer to collect such taxes in the manner prescribed by law for the collection of township, ward, city, or village taxes assessed upon personal property, except as herein otherwise provided, and he shall within the same time deliver the said

roll and warrant so completed to the treasurer of his county. *Provided, however,* that in case the above roll is not completed within the time above fixed, or is defective in any respect, the same may, by such assessor, be completed at any time thereafter and delivered to such treasurer, nor shall any irregularity or defect in the certificate attached to said roll in anywise invalidate said roll or any tax therein assessed. *Provided further,* that should any person, corporation, association, company, or copartnership be added to said roll after the time fixed for reviewing the same, as above provided, or should such roll not be completed, or such assessor not be present at his office at the time above fixed, then public notice shall be published in some newspaper printed and published in said county, setting forth the name of each person, corporation, association, company, or copartnership added to or appearing upon said roll, and fixing a time and place not less than ten days from the date of publication at which all persons interested may appear and show cause why such assessment should not be charged as above provided, or such notice may be served personally upon each person, corporation, association, company, or copartnership, at least three days before the time fixed for such hearing.

SEC. 7. The county treasurer, upon receiving such roll, shall proceed to collect such taxes, and for that purpose shall remain in his office on the second, third, and fourth Fridays of June, and upon all taxes paid to him at any time prior to or on the fourth Friday of June he shall retain two per cent. for collection fees. Every county treasurer, sheriff, or other officer who shall collect or receive payment of any tax, under the provisions of this act, shall, upon making such collection or receiving such payment, give a receipt for the tax so collected or received to the person, company, corporation, or firm of whom the same shall be collected or received, in which the person, firm, company, or copartnership paying the tax shall be named, the amount of the tax, and the time in which the same was assessed and paid, and the kinds of business for or on account of which the tax was paid, shall be printed in such receipt. And if such business includes the sale of brewed or malt liquors only, the words "malt liquors" shall be printed in large, conspicuous letters in the receipt. And said receipts shall be posted up and at all times displayed in a conspicuous place in the room or place where the sale of the liquors or beverages named in this act, and for which the tax was paid, is carried on, so that such receipt shall be displayed in a conspicuous manner to all persons visiting or frequenting such room or place; and any person, company, firm, or copartnership who shall carry on any business or sell any liquors or beverages for which a tax is required to be paid by

this act, without having such a receipt posted up and displayed as aforesaid in the place where such business or sales is or are carried on, shall be deemed guilty of a misdemeanor, and shall be subject to the same fine and punishment as is provided in this act for the neglect or refusal to pay the tax required by this act. And it shall be the duty of the auditor-general to prepare printed blank receipts conforming to the provisions of this act, and to furnish the same in proper quantities to the several county treasurers of the State, and such treasurers shall furnish the necessary numbers of such blanks to the sheriff or other officer collecting any such tax. No county treasurer, or other officer, shall receive a part of the tax assessed against such person, company, or copartnership, nor receipt for such partial payment; nor shall any such person, company, or copartnership engage in the business taxed by this act without having paid to the county treasurer the entire amount for which they are so taxed to the end of the taxing year.

SEC. 8. If any person, corporation, association, company, or copartnership shall refuse or neglect to pay the tax so assessed within the time specified in the preceding section, such treasurer shall, within five days after the time limited for collecting the same, issue his warrant to the sheriff of said county, reciting therein the name of such person, corporation, association, company, or copartnership, the business carried on, the assessment of such tax, and the date of the same, and commanding him to levy and make the amount of said assessment with interest at the rate of ten per cent. per annum from the date of such warrant, and six per cent. collection fees (two-thirds of which fees shall be retained by the sheriff, and one-third of which, in addition to his fees allowed by section seven of this act, shall be paid to the county treasurer as his fees under the said warrant), by distress and sale of any goods and chattels of such person or persons, corporation, association, company, or copartnership, or of any goods and chattels found in the custody or possession of such person, corporation, association, company, or copartnership, and used in the business of such person, corporation, association, company, or copartnership, and in default thereof then of his, her, or their lands and tenements, and to pay over the same excepting his fees, and to make a return of his warrant and of his doings thereon to the county treasurer within sixty days of the date thereof. *Provided*, that if, upon demand of the tax by the sheriff, the delinquent shall pay such tax without levy and upon such demand, then the sheriff shall collect of such delinquent, in addition to the amount due at the time of such demand, three per cent. for the fees of the said treasurer, and *also the amount of fees for himself which are allowed him by law in case of demand upon execution issued from any Court of Record.*

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SEC. 9. Upon the receipt of such warrant the sheriff shall immediately proceed to collect the taxes therein, and for that purpose he shall, within ten days from the time of receiving said warrant, call once at the place of business of each person, corporation, association, company, or copartnership named in said warrant and demand payment of such tax; and in case any person, corporation, association, company, or copartnership shall not upon such demand pay such tax so levied against him or them as stated in said warrant, with interest and fees for collecting, he shall forthwith levy upon and proceed to sell the goods and chattels of such person, corporation, association, company, or copartnership wherever found in said county, and in so doing he shall first levy upon and seize all the bar fixtures, or furniture, liquors, beverages, and other goods and chattels used in carrying on such business, and also upon sufficient other goods and chattels of such person, copartnership, corporation, or company to satisfy such tax, and for want thereof, or for want of sufficient thereof to satisfy such tax, then upon the lands and tenements of every such person, corporation, association, company, or copartnership wherever found in said county; and such levy upon any such goods, chattels, or effects, so used in carrying on such business, or to be used therefor, shall take precedence of any and all liens, mortgages, conveyances, or encumbrances thereon, nor shall any claim of property by any third person to such goods, chattels, or effects, so used or intended for use in carrying on such business, avail against such levy so made by the sheriff; and no property of any person, corporation, association, company, or copartnership liable to pay tax under the provisions of this act shall be exempt from such levy.

SEC. 10. The sheriff shall give public notice of the time and place of sale, and of the property to be sold, at least six days previous to the sale, by advertisement, to be posted up in three public places in the township, city, or village where such sale is made. *Provided, however,* that in cases where a levy has been made upon real estate, such sheriff shall give like notice of the time and place of such sale as in sales of real estate on execution, and all provisions of law applicable to sales of real estate upon execution shall be applicable to sales of real estate under this act, except as herein otherwise provided; and every deed executed by the sheriff upon sales of real estate under the provisions of this act shall be *prima facie* evidence of the regularity and validity of all the proceedings from the making of the assessment and levy of the tax to and including the execution and delivery of the deed; and the surplus arising on any such sale, after deducting tax, interest, and fees, and in cases of levy upon or sale of real estate, the like costs and fees in all respects as in cases of

levy and sales upon execution shall be returned to the party, person, or company against whom the tax was levied.

Sec. 11. In case the property so distrained or levied upon cannot be sold for want of bidders, the sheriff may adjourn such so often as may be necessary, not exceeding one week, however, at any one time; and within five days after the return-day named in the warrant, the sheriff shall make and annex to his warrant a return thereto, in writing, and on oath, to the county treasurer, setting forth all his proceedings under said warrant, against whom any tax therein remains unpaid, together with a statement and description of all the property levied upon by him and remaining unsold, and he shall at the same time pay over to the county treasurer all moneys collected by him upon said warrant, less his fees thereon; and if any tax stated in said warrant, or any part thereof, remains uncollected, or if any real estate or other property levied upon remains unsold, the county treasurer shall forthwith renew said warrant for a period not exceeding thirty days, by renewal to be endorsed upon or attached to the warrant and return, and again deliver the same to the sheriff, and such renewals shall be made and attached in like manner so often as may be necessary until the whole tax is collected; and under such renewal or renewals of the warrant, the sheriff shall proceed to complete the sale of, and sell, any property previously levied upon and remaining unsold, and shall otherwise collect all taxes remaining unpaid within the like time and manner as directed in the warrant, and he shall make like returns to such renewals, on oath, and within the like time as required in case of return to the original warrant; and upon the final return of said warrant and the renewals thereof, the treasurer shall file and preserve the same in his office.

Sec. 12. The assessor shall have power, and it shall be his duty, to add to said roll, at any time during the year, the name of any person, corporation, association, company, or copartnership engaged in any kind of business specified in the first section of this act, whose name does not appear upon such roll, and to assess against such business thereon a *pro rata* tax for the unexpired portion of such year; and said assessor shall, before making such assessment, notify the person, corporation, association, company, or copartnership of the time and place at which the assessment will be made, and requiring such persons to appear at the time and place mentioned and show cause, if any, why such assessment should not be made, which notice shall be served by leaving a copy thereof with the person or persons to be assessed, or with some person at his or their place of business, at least three days before the time specified therein for the day of hearing; and upon such assessment being made, and within ten days after such hearing, the assessor shall complete such assess-

ment, and date and attach the same to the original assessment-roll in the hands of the county treasurer ; and within five days thereafter said treasurer shall issue his warrant, and thereupon the same proceedings shall be had in all respects, and within like times, as though such assessment had been made by the assessor as first in this act prescribed. *Provided, however,* that all warrants issued under this section shall be returnable sixty days from date of same. That in case of neglect or refusal of said assessor to comply with the provisions of this section, then, and in that case, the said county treasurer shall have power, and it shall be his duty, to make the assessment and give the notice required by this section, and the same shall be valid as though made by the assessor ; and every assessment and every assessment-roll made under the provisions of this act, after the same shall have been placed in the hands of the county treasurer, shall be *prima facie* evidence of the legality and validity of the roll, and of the assessments, and of the correctness and regularity of all the proceedings to assess and collect the tax, and that the person or persons assessed are liable to pay the tax assessed against them. *Provided further,* that in case any person who has been assessed under the provisions of this act, and shall have paid the tax assessed against him, shall at any time thereafter during the year discontinue the business for which he was assessed, such tax, or any part of same, shall not be refunded.

SEC. 13. All moneys collected by any treasurer under the provisions of this act, except the fees and percentage herein allowed to him as compensation, which may be retained by such treasurer as his fees, shall be by him placed to the credit of the contingent fund of the township, village, or city from which the same was collected, and the same shall be by such township, village, or city applied as other contingent funds.

SEC. 14. It shall be the duty of each and every county treasurer, at least once in each and every month, to make a sworn statement containing the names of each and every person, corporation, company, or copartnership in his county paying a tax during said month, under the provisions of this act, stating therein the residence of such person, corporation, association, company, or copartnership, the business in which such person is engaged, the place of doing business, the amount of tax paid, and date of payment of the same, and file such statement with the clerk of his county ; and such county treasurer shall, on or before the first day of December in each year, make a full and complete report of all the facts, as shown by the reports on file in his office, and return the same to the auditor-general, and publish the same in at least two newspapers in his county, if so many there be. All blanks required to carry into effect the

provisions of this act shall be prepared and furnished by the auditor, general to the county treasurers, and by them to the township, village, or city officers. After any warrant shall have been delivered to the county treasurer, he shall upon the first day of every month thereafter, and also whenever any warrant, or renewal thereof, shall be returned to him showing any tax remaining unpaid, deliver a report and statement, in writing, to the prosecuting attorney of the county, giving the name, and place of residence, and place of business of every person, corporation, association, company, or copartnership who have failed to pay any tax, or any part of any tax, levied or assessed against him or them under this act, and the amount of the tax so remaining unpaid ; and thereupon the prosecuting attorney shall forthwith prosecute every such delinquent, to recover the penalty and enforce the punishment provided in this act for the non-payment of such tax ; and no levy made, or proceeding taken by the sheriff to collect such tax, shall be a defence to such prosecution, unless collection of said tax was enforced thereby before the commencement of such prosecution. And at the time of making such reports as aforesaid to the prosecuting attorney, the county treasurer shall make a like sworn statement and report to the governor of the State, together with the names, and amount of tax due from all persons against whom such prosecution has been commenced.

SEC. 15. Any officer wilfully neglecting or refusing to perform his duty under the provisions of this act shall be liable to a penalty of one hundred dollars for each and every offence. And any person liable to pay a tax under the provisions of this act who shall neglect or refuse to pay the same shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than twenty-five dollars nor more than one hundred dollars and costs of prosecution for each and every offence, and on failure to pay such fine and costs shall be imprisoned in the county jail not less than ten nor more than ninety days, in the discretion of the court.

SEC. 16. The word " assessor," as used in this act, shall be held to include supervisors, or other officers whose duty it is to make assessments in townships, wards, villages, or cities.

SEC. 17. In case any assessor, county treasurer, prosecuting attorney, or sheriff wilfully neglects or refuses to perform his duty under the provisions of this act, he shall be liable to a penalty of one hundred dollars for each and every offence ; and the governor may, in case of any such neglect or refusal, appoint some other person or persons to perform the duties prescribed by this act, who shall, upon being so appointed, have like powers and duties under

this act as such assessor, treasurer, prosecuting attorney, or sheriff, as the case may be; and in case of the appointment of any person in place of the prosecuting attorney to prosecute for violations of this act in any county, the board of supervisors shall allow and pay to such prosecutor a reasonable compensation for all services performed by him as such prosecutor.

SEC. 18. The act entitled "An act to prevent the manufacture and sale of spirituous or intoxicating liquors as a beverage," approved February third, eighteen hundred and fifty-five, and the several acts amendatory thereof and in addition thereto, being sections two thousand one hundred and thirty-six to section two thousand one hundred and fifty-four, inclusive, of the compiled laws of eighteen hundred and seventy-one; also act number one hundred and fifty of the session laws of eighteen hundred and seventy-three, entitled "An act to prevent the sale of spirituous and intoxicating drinks as a beverage," the same being a new section to chapter sixty-nine of the compiled laws of eighteen hundred and seventy-one, being an act relative to "the manufacture and sale of spirituous and intoxicating drinks as a beverage," to stand as section twenty-two, shall be and the same are hereby repealed, saving all actions pending and all causes of action which have accrued at the time this act takes effect.

SEC. 19. This act shall take immediate effect.

## ILLINOIS.

THE following is the license and civil-damage law, approved January 13, 1872.

### AN ACT TO PROVIDE AGAINST THE EVILS RESULTING FROM THE SALE OF INTOXICATING LIQUORS IN THE STATE OF ILLINOIS.

SECTION 1. *Be it enacted by the People of the State of Illinois, represented in the General Assembly,* That it shall be unlawful for any person or persons, by agent or otherwise, without first having obtained a license to keep a grocery, to sell, in any quantity, intoxicating liquors, to be drunk in, upon, or about the building or premises where sold, or to sell such intoxicating liquors to be drunk in any adjoining room, building, or premises, or other place of public resort connected with said building. *Provided,* That no person shall be granted a license to sell or give away intoxicating liquors without first giving a bond to the municipality or authority authorized by law to grant licenses; which bond shall run in the name of "The People of the State of Illinois," and be in the penal sum of three thousand dollars, with at least two good and sufficient securities, who shall be freeholders, conditioned that they will pay all damages to any person or persons which may be inflicted upon them, either in person, or property, or means of support, by reason of the person so obtaining a license selling or giving away intoxicating liquors; and such bond may be sued and recovered upon for the use of any person or persons, or their legal representatives, who may be injured by reason of the selling intoxicating liquors by the person or his agent so obtaining the license.

SEC. 2. It shall be unlawful for any person or persons, by agent or otherwise, to sell intoxicating liquor to minors, unless upon the written order of their parents, guardians, or family physicians, or to persons intoxicated, or who are in the habit of getting intoxicated.

SEC. 3. All places where intoxicating liquors are sold in violation of this act shall be taken, held, and declared to be common nuisances, and all rooms, taverns, eating-houses, bazaars, restaurants, drug stores, groceries, coffee-houses, cellars, or other places of public resort where intoxicating liquors are sold in violation of this act shall be shut up and abated as public nuisances, upon the

conviction of the keeper thereof, and shall be punished as herein provided.

SEC. 4. Every person who shall by the sale of intoxicating liquors, with or without a license, cause the intoxication of any other person shall be liable for and compelled to pay a reasonable compensation to any person who may take charge of and provide for such intoxicated person, and two dollars per day in addition thereto for every day such intoxicated person shall be kept in consequence of such intoxication; which sums may be recovered in an action of debt before any court having competent jurisdiction.

SEC. 5. Every husband, wife, child, parent, guardian, employer, or other person who shall be injured in person, or property, or means of support by any intoxicated person, or in consequence of the intoxication, habitual or otherwise, of any person, shall have a right of action in his or her own name, severally or jointly, against any person or persons who shall, by selling or giving intoxicating liquors, have caused the intoxication, in whole or in part, of such person or persons; and any person or persons owning, renting, leasing, or permitting the occupation of any building or premises, and having knowledge that intoxicating liquors are to be sold therein, or who, having leased the same for other purposes, shall knowingly permit therein the sale of any intoxicating liquors that have caused, in whole or in part, the intoxication of any person, shall be liable, severally or jointly, with the person or persons selling or giving intoxicating liquors aforesaid, for all damages sustained, and for exemplary damages; and a married woman shall have the same right to bring suits and to control the same and the amount recovered as a *femme sole*; and all damages recovered by a minor under this act shall be paid either to such minor or to his or her parent, guardian, or next friend, as the court shall direct; and the unlawful sale or giving away of intoxicating liquors shall work a forfeiture of all rights of the lessee or tenant, under any lease or contract of rent upon the premises where such unlawful sale or giving away shall take place; and all suits for damages under this act may be by any appropriate action in any of the courts of this State having competent jurisdiction.

SEC. 6. For every violation of the provisions of the first and second sections of this act, every person so offending shall forfeit and pay a fine of not less than twenty nor more than one hundred dollars, and be imprisoned in the jail of the county not less than ten nor more than thirty days, and pay the costs of prosecution; and for every violation of the provisions of the third section of this

act every person convicted as the keeper of any of the places therein declared to be nuisances shall forfeit and pay a fine of not less than fifty nor more than one hundred dollars, and be imprisoned in the jail of the county for not less than twenty nor more than fifty days, and pay the costs of prosecution ; and such place or places so kept by such person or persons so convicted shall be shut up and abated upon the order of the court before whom such conviction may be had, until such time as such person or persons keeping such places shall give bond and security, to be approved by said court, in the penal sum of one thousand dollars, payable to the State of Illinois, conditioned that he, she, or they will not sell intoxicating liquors contrary to the laws of this State, and will pay all fines, costs, and damages assessed against such keeper or keepers for any violation thereof ; and, in case of a forfeiture of such bond, suit may be brought thereon for the use of any person interested, or for the use of the county, in case of a fine or costs due such county. *Provided*, That the penalties in the nature of fines mentioned in this section may be enforced separately, from the imprisonment, before justices of the peace, or police magistrates.

SEC. 7. The giving away of intoxicating liquors, or other shift or device to evade the provisions of this act, shall be deemed and held to be an unlawful selling within the provisions of this act.

SEC. 8. For the payment of all fines, costs, and damages assessed against any person or persons, in consequence of the sale of intoxicating liquors, as provided in section five of this act, the real estate and personal property of such person or persons, of every kind, except such as may be exempt under the homestead laws of this State, or such as may be exempt from levy and sale upon judgment and execution, shall be liable, and such fines, costs, and damages shall be a lien upon such real estate until paid ; and, in case any person or persons shall rent or lease to another or others any building or premises to be used or occupied, in whole or in part, for the sale of intoxicating liquors, or shall permit the same to be so used or occupied, such building or premises so used or occupied shall be held liable for and may be sold to pay all fines, costs, and damages assessed against any person or persons occupying such building or premises. Proceedings may be had to subject the same to the payment of any such fine and costs assessed, or judgment recovered, which remain unpaid, or any part thereof, either before or after execution shall issue against the *property of the person or persons against whom such fine and costs or judgment shall have been adjudged or assessed* ; and, when exe-

cution shall issue against the property so leased or rented, the officer shall proceed to satisfy said execution out of the building or premises so leased or occupied as aforesaid; and, in case such building or premises belong to a minor, insane person, or idiot, the guardian of such minor, insane person, or idiot, and his or her real and personal property, shall be held liable instead of such minor, insane person, or idiot, and his or her property shall be held subject to all the provisions of this section relating to the collection of fines, costs, and damages.

SEC. 9. The penalty and imprisonment mentioned in the sixth section of this act may be enforced by indictment in any court of record having criminal jurisdiction; and all pecuniary fines or penalties provided for in any of the sections of this act (except the fourth and fifth) may be enforced and prosecuted for before any justice of the peace of the proper county, in an action of debt, in the name of "The People of the State of Illinois," as plaintiff; and, in case of conviction, the offender shall stand committed to the common jail until the judgment and costs are fully paid; and the magistrate or court in which the conviction is had shall issue a writ of *capias ad satisfacendum* therefor; and justices of the peace shall also have jurisdiction of all actions arising under the fourth and fifth sections of this act, when the amount in controversy does not exceed two hundred dollars, such actions to be prosecuted in the name of the party injured or entitled to the debt or damages provided for in said fourth and fifth sections.

SEC. 10. In all prosecutions under this act, by indictment or otherwise, it shall not be necessary to state the kind of liquor sold, or to describe the place where sold; and for any violation of the third section of this act, it shall not be necessary to state the name of the person to whom sold; and in all cases the person or persons to whom intoxicating liquors shall be sold in violation of this act shall be competent witnesses to prove such fact or any other tending thereto.

## NORTH CAROLINA.

WE give the Local Prohibition Bill in full as it passed the Legislature and is now in force :

### AN ACT TO PROHIBIT THE SALE OF SPIRITUOUS LIQUORS IN TOWNSHIPS WHERE THE PEOPLE SO DETERMINE.

SEC. 1. *The General Assembly of North Carolina do enact :* That it shall be the duty of the county commissioners of any county, upon petition of one-fourth of the qualified voters of any township in their respective counties, to order an election to be held on the first Monday in May in every year, to ascertain whether or not spirituous liquors shall or may be sold in said township or townships.

SEC. 2. That it shall be the duty of the sheriffs of each county to hold such township elections when so ordered, under the same rules and regulations as are prescribed by law for holding elections for members of the General Assembly, so far as the same may be applicable, except as herein modified.

SEC. 3. That any person allowed by law to vote for members of the General Assembly shall have the right to vote at such elections in the township where he is allowed by law to vote, and every such voter who favors the prohibition of the sale of spirituous liquors in his township shall vote a ticket on which shall be written or printed the word "prohibition," and every such voter who shall favor such sale shall vote a ticket on which shall be written or printed the word "license."

SEC. 4. That on the day next after any such election shall be held, the inspectors of such election and a justice of the peace of the township shall compare the votes polled in the township, and certify the number of votes cast in favor of "prohibition" and the number in favor of "license," and the result of such election, to the Register of Deeds of the county, who shall first carefully copy such certificates in a book to be prepared and kept for that purpose, and then file the same among the papers of his office; and a certified copy from the book in which such certificate is so

registered, under the hand of the Register of Deeds and the seal of the county, shall be sufficient evidence in all cases and courts in this State of the result of such election in the township to which the same may refer.

SEC. 5. That if a majority of the votes cast at any such election in any township shall have written or printed on the same the word "prohibition," then and in that case it shall not be lawful for the county commissioners to license the sale of spirituous liquors, or for any person to sell any spirituous liquors within such township for one year next after any such election; and if any person so prohibited shall sell any spirituous liquors within such township, such person offending shall be deemed guilty of a misdemeanor, and, on conviction of such offence, shall be fined not exceeding fifty dollars, or imprisonment not exceeding one month; but if a majority of the votes so cast shall have written or printed on the same the word "license," then spirituous liquors may be sold in such townships, as now provided by law, and not otherwise; provided that nothing herein contained shall affect localities in which the sales of spirituous liquors are prohibited by law.

SEC. 6. The sheriff shall designate the justice of the peace in each township to aid in comparing and certifying the vote cast at any such election, and the Register of Deeds shall designate inspectors of elections in each township; in case he shall fail, the sheriff or his deputies shall make such appointments; and if any officer or other persons shall fail to discharge any duty imposed by this act, such person offending shall be guilty of a misdemeanor, and, on conviction in the Superior Court, fined in the discretion of the court.

SEC. 7. This act shall take effect and be in force from and after the first day of April, 1874.

## TEXAS.

Texas has a local prohibitory law, passed in 1876, as follows:

### CHAPTER XXXIII.

**AN ACT** to prohibit the sale, exchange, or gift of intoxicating liquors in any county, justice's precinct, city, or town in this State that may so elect; prescribing the mode of election, and affixing a punishment for its violation.

**SECTION 1.** *Be it enacted by the Legislature of the State of Texas,* That it shall be the duty of the commissioners' court of each county in the State, upon the written petition of fifty qualified voters of said county, or upon such petition by twenty qualified voters of any justice's precinct, town, or city therein, to order an election to be held by the qualified voters of said county, justice's precinct, town, or city, as the case may be, to determine whether the sale of intoxicating liquors, and medicated bitters producing intoxication, shall be prohibited in such county, justice's precinct, town, or city, or not. *Provided*, that nothing herein contained shall be construed to prohibit the sale of wines for sacramental purposes; nor alcoholic stimulants as medicines in cases of actual sickness, when sold upon the written prescription of a regular practising physician, certifying upon honor that the same is actually necessary as a medicine.

**Sec. 2.** It shall be the duty of such court, at its first session, after the filing of such petition with the clerk thereof, to order an election to be held at the regular voting place or places within the proposed and prescribed limits, upon a day not exceeding thirty days from the date of said order; and said order shall express the object of said election. The clerk shall post, or cause to be posted, at least five copies of said order at different public places in each justice's precinct, town, or city in which such election shall be held, for at least twenty days prior to the day of election. Said court shall appoint and qualify the proper officers under existing laws. At said election those who favor the prohibition of the sale of intoxicating liquors within the prescribed limits shall have written or printed on their tickets the words "For Prohibition"; and those who oppose it shall endorse on their tickets the words "Against Prohibition." *The officers holding said election shall in all respects not herein*

**specified conform to the existing laws regulating elections ; and after the polls are closed, they shall proceed to count the vote ; and they shall, within ten days thereafter, make due report of said election to the aforesaid court.**

**SEC. 3. Said court shall hold a special session on the eleventh day after the holding of the aforesaid election, or as soon thereafter as practicable, for the purpose of opening the polls and counting the votes ; and if a majority of the votes cast are " For Prohibition," said court shall immediately make an order declaring the result of said vote, and absolutely prohibiting the sale of intoxicating liquors within the prescribed bounds (except for the purposes specified in Section one of this act), until such time as the qualified voters therein may, at a legal election held for the purpose, by a majority vote, decide otherwise ; and said order of court so declaring the result of election and prohibiting the sale of intoxicating liquors shall be published for four successive weeks in the newspaper having the largest circulation in the county ; and in such counties as shall have no newspaper, by posting said order at three public places within the prescribed limits. But if a majority voting at such election vote " Against Prohibition," the court shall make an order declaring the result, and have the same entered of record in the office of the clerk of said court.**

**SEC. 4. No election under the foregoing sections shall be held within the same prescribed limits in less than twelve months after an election under this act has been held therein ; but a failure to carry prohibition in a county shall not prevent such election being immediately thereafter held in a justice's precinct, town, or city of said county ; nor shall the failure to carry prohibition in a town or city prevent an election being immediately thereafter held in the same justice's precinct ; nor shall the holding of such election in any justice's precinct in any way prevent the holding of an election for the entire county immediately thereafter.**

**SEC. 5. When any such election has been held, and has resulted in favor of prohibition, and the aforesaid court has made the order declaring the result, and the order of prohibition, and has caused the same to be published as aforesaid, any person or persons who shall thereafter, within the prescribed bounds of prohibition, sell, exchange, or give away, with the purpose of evading the provisions of this act, any intoxicating liquors whatsoever, or in any way violate any of the provisions of this act, shall be subject to prosecution, by information or indictment, and shall be fined in a sum not less than twenty-five nor more than two hundred dollars for each and every violation of any of the provisions of this act.**

**SEC. 6. It is hereby made the duty of the district judges to give**

this act in charge to the grand juries ; and it is made the especial duty of the county attorneys, the county judges, and all justices of the peace having jurisdiction in the premises to see that this act is rigidly enforced. An officer failing to discharge his duties under this act in any respect shall be subject to indictment, and, if convicted, shall be fined not less than one hundred nor more than one thousand dollars. All fines collected under this act shall be paid into the county treasury, and shall continue a part of the school fund for the county, justice's precinct, town, or city in which the law is in force.

Sec. 7. All laws and parts of laws in conflict with this act are hereby repealed.

Approved June 24, 1876.

Takes effect ninety days after adjournment.

## OTHER STATES.

### WISCONSIN.

WISCONSIN, in place of the more stringent so-called "Graham" law, has a license law of twenty-four sections, approved March 9, 1874. The board of supervisors of the several towns, and the aldermen of any incorporated city, and the board of trustees of any incorporated village, are constituted the licensing authorities, who may grant licenses to as many persons as they "may deem proper." A bond of \$500 is required as a guarantee of compliance with the restrictive provisions of the law. Penalties are provided for the sale of liquor without license. Liquors may not be sold or given away to "spendthrifts" or minors, and parties injured in consequence of the sale of liquors may sue for damages. Drunkenness is punished by a fine not exceeding \$10 and costs, and imprisonment not exceeding five days, or both. All places where intoxicating liquors are sold in violation of law shall be shut up and abated as public nuisances.

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### KANSAS.

KANSAS has a license law of fifteen sections, entitled "An Act to restrain Dram-shops and Taverns, and to regulate the Sale of intoxicating Liquors," approved March 3, 1868.

SECTION 1 provides, except in "cities of the first and second classes," that petitions for license must be signed by *a majority of the residents of the ward or township of twenty-one years of age or over, "both male and female."*

certifying as to the fitness of the applicant and requestin that the license be granted.

SEC. 2 provides for an annual tax upon every license granted of "not less than one hundred dollars, and not more than five hundred dollars."

SEC. 3 prescribes penalties for the sale of liquor without license.

SEC. 4 prohibits the sale of liquors on Sunday, the Fourth of July, and upon election days.

The remaining sections provide against evasion, and for the faithful execuention of the law, for civil damage, that dram-shop debts for liquors sold shall be void in law and that intoxication shall be unlawful.

Another act, approved March 5, 1875, provides for "the removal of public officers who are guilty of being intoxicated, or of gambling." The first section is as follows:

*Be it enacted by the Legislature of the State of Kansas:*

SECTION 1. That any State, district, city, county, or township officer of this State, for whose removal from office by impeachment there is no provision, who shall in any public place within the State be in a state of intoxication produced by strong drink voluntarily taken, such officer shall be deemed to have committed an offence against the public morals, and on conviction thereof shall be adjudged to have forfeited his office, and his said office shall thereupon be declared vacant by the court trying the cause.

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## NEBRASKA.

NEBRASKA has a license law of nineteen sections. It is the function of county commissioners to issue licenses upon the petition of at least ten freeholders, attested before a ustice, setting forth that the applicant is of "respectable haracter and standing," and praying that the license may be issued. License fees are devoted to the school fund. ~~the sale of liquor to Indians is prohibited. Liquor-ven-~~

ders are made responsible for all damages growing out of the traffic. No suit for liquor bills when sold in less quantities than five gallons can be entertained in any court. Penalties are provided for violations and evasions of the law.

Two supplementary acts, passed February, 1875, define and render somewhat more stringent the regulations concerning the issuing of licenses and the sale of liquor to Indians.

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#### NEVADA.

NEVADA has no law upon the statute-book relating to the traffic in alcoholic liquors.

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#### ARKANSAS.

ARKANSAS has a local-option license law entitled "An Act to Regulate the licensing of Dram-shops, and for other Purposes," of ten sections, approved May 30, 1874. It is as follows :

*Be it enacted by the General Assembly of the State of Arkansas :*

SECTION 1. That hereafter there shall be an election held in each township, ward of a city, and incorporated town of this State on Tuesday after the first Monday in November in each year, at which election there shall be submitted to the qualified electors of said township, ward of a city, or incorporated town the question whether licenses shall be granted by the board of supervisors of each county to any person to keep a drinking-saloon or dram-shop, for the sale of ardent, vinous, or fermented liquors, for sale in quantities less than one quart.

SEC. 2. That at such election each elector shall have written or printed on his ballot the words "For license" or "Against license."

SEC. 3. That said election shall be held by the same officers and at the same time and in the manner as other elections, and the returns thereof sealed up and forwarded to the county clerk of the proper county, and by him laid before the board of supervisors at the next term thereof, held more than ten days next thereafter ; and

if it shall appear that a majority of the votes cast in each township, ward of a city, or incorporated town be cast for license, then it shall be lawful for such board of supervisors to grant licenses in such townships, to continue in force for one year next thereafter, subject to the restrictions hereinafter set forth.

SEC. 4. That if at any such election the majority of the vote of any township, ward of a city, or incorporated town should be cast against license, then it shall not be lawful for the board of supervisors to grant license to any person to keep a drinking-saloon or dram-shop in any such township, ward of a city, or incorporated town for the space of one year after such election.

SEC. 5. That each applicant for a license under this act shall present his petition to the board of supervisors of the proper county, setting forth the place where such drinking-saloon or dram-shop is to be kept, and shall enter into bond to the State of Arkansas in the penal sum of two thousand dollars, conditioned that such applicant will pay all damages that may be occasioned by reason of liquors drank at his house; and shall further pay to any person all such sums of money as may be lost at gaming in his said saloon or dram-shop, or any room or building thereto attached, with two good sureties to be approved by said board of supervisors.

SEC. 6. That before any license shall be granted under this act the applicant therefor shall pay to the proper officers all fees, licenses, costs, or taxes that may be levied by any proper authority, and shall produce the receipt therefor to the county clerk of said county to be filed in his office.

SEC. 7. That the county clerk shall keep a record in his office of all licenses granted and fees and costs paid therefor, together with the bonds filed by the applicant.

SEC. 8. That any person aggrieved by the keeping of said drinking-saloon or dram-shop, or who may have lost any money or other valuable thing at gaming in said dram-shop, or house, or room thereto attached, may have an action on said bond against the principal and sureties.

SEC. 9. That any person that shall keep a drinking-saloon or dram-shop without procuring a license as provided by this act shall be deemed guilty of a misdemeanor, and on conviction shall be fined in any sum not less than one hundred dollars and imprisoned in the county jail not less than thirty days.

SEC. 10. That all laws in conflict herewith be repealed, and that the first election be held under this act on Tuesday after the first Monday in November, eighteen hundred and seventy-four (1874).

*Approved May 30, 1874.*

## IOWA.

IOWA has a prohibitory law of thirty-six sections. The manufacture and sale of intoxicating liquors is prohibited, except for "mechanical, medicinal, culinary, or sacramental purposes"; except also foreign importations of such liquors under the authority of the laws of the United States; except also the manufacture and sale of beer, cider from apples, wine from grapes, currants, or other fruits grown in the State. Violations of the law either in manufacturing or selling intoxicating liquors are punished by fines varying from twenty to two hundred dollars, and by imprisonment from ten days to six months. Common carriers are liable for bringing liquors into the State except upon a proper certificate, penalties are prescribed for evasions of the law, and there is a civil damage proviso for injuries resulting from the illegal sale of intoxicating liquors. Hotel-keepers, keepers of saloons, eating-houses, grocery keepers, and confectioners are not allowed to sell intoxicating liquors under any circumstances. Only such persons can sell for "mechanical, medicinal, culinary, and sacramental purposes" as first obtain permission from the board of supervisors of the county in which the business is to be conducted, and upon the certificates of a majority of the legal electors of the town, township, or ward. A bond of three thousand dollars with two or more sureties, who shall justify in double the amount of said bond, is required of every applicant to whom a permit is thus granted.

## MINNESOTA.

MINNESOTA has a license law of the general character of those in force in other States. As amended in 1872, it provides that no licensed vendor of intoxicating liquors shall "sell, barter, furnish, nor give away such liquors to

any minor person, pupil, or student in any public school, academy, seminary, or other institution of learning, nor to any intemperate person or habitual drunkard." Penalties are provided for violations and evasions of the law, and all keepers of drug-stores, dispensaries, apothecary-shops, or other business houses in any manner dealing in spirituous, vinous, or malt liquors, for whatever purpose, are subjected to all the conditions, liabilities, and penalties prescribed for and imposed upon other persons.

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### WEST VIRGINIA.

WEST VIRGINIA has a license law of ten sections, enacted in 1872-3. It makes unlawful the retail sale of intoxicating liquors without license; provides that it "shall be unlawful for any person or persons, by agent or otherwise, to sell intoxicating liquors behind screen, 'frosted' windows, or any other device designed or intended to protect the seller or buyer from public observation"; prohibits the sale of liquor to minors, or to persons intoxicated or in the habit of getting intoxicated; makes the vender of intoxicating liquor responsible for the care and maintenance of those whose intoxication he may have occasioned, and provides also for the collection of damages by the families and friends of drunkards. Owners of property used for the sale of liquors are made responsible, with the venders, for the consequences of the traffic. Penalties are provided for violations and evasions of the law.

## MISSOURI.

THE license law of Missouri levies a semi-annual tax of not less than \$25 nor more than \$200 on dram-shop keepers' licenses. Licenses are granted by county courts or mayors of cities on application signed by a majority of the tax-paying citizens of the locality. Bonds of \$1,000 must be given. Wine-growers may sell wine of their own production without license. Gift or sale of liquor to habitual drunkards is prohibited, after notice from relatives, also sale of liquor on Sundays, with penalty of not less than \$50 and forfeiture of license. Drug-gists must take out licenses, and cannot sell or give away less than one gallon, except on prescription of a practising physician.

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## MISSISSIPPI.

MISSISSIPPI has a general license law of seventeen sections, approved May 13, 1871.

The corporate authorities of cities and towns, and boards of supervisors in counties, are empowered to grant annual licenses, at rates of from two hundred to one thousand dollars, according to locality, "the sums received for such licenses to be for the use of the common school fund." Petitions for license must recommend the applicant to be "of good reputation, and a sober and suitable person to receive such a license," and be signed by a majority of the legal voters of the supervisor's district, city, or town wherein the liquors are to be sold. Bonds of \$1,000 are required. Druggists and physicians may sell in less quantity than one gallon, if they file an affidavit in the office of the chancery clerk of the county that they will "only sell vinous or spirituous liquors for medicinal, culinary, or sacramental purposes." Debts

contracted for liquors sold at retail are made invalid. The sale of liquors on Sunday is prohibited.

An act was passed February 8, 1876, repealing the proviso which required the signatures of the majority of the women of a given district before licenses could be granted. By special acts of the Legislature, the sale of intoxicating liquors is prohibited within one, two, three, or five miles of several towns, and wholly in sundry other townships.

## PROHIBITION CONSTITUTIONAL.

THE following extracts are from the records of the Supreme Court :

Chief Justice Taney said : " If any State deems the retail and internal traffic in ardent spirits injurious to its citizens, and calculated to produce idleness, vice, or debauchery, I see nothing in the Constitution of the United States to prevent it from regulating or restraining the traffic, or from prohibiting it altogether, if it thinks proper."—[5 Howard, 577.]

Hon. Justice McLean said : " A license to sell is a matter of police and revenue within the power of the State."—[5 Ibid., 589.] " If the foreign article be injurious to the health and morals of the community, a State may prohibit the sale of it."—[Ibid., 595.] Again he says : " No one can claim a license to retail spirits as a matter of right."—[Ibid., 596.]

Hon. Justice Carton said : " If the State has the power of restraint by license to any extent, she may go to the length of prohibiting sales altogether."—[5 Ibid., 611.]

Hon. Justice Daniels said of imports when cleared of all duty and subject to the owner : " They are like all other property of the citizens, and should be equally the subjects of domestic regulation and taxation, whether owned by an importer or his vendor."—[5 Ibid., 614.]

In reply to the argument that the importer purchases the right to sell when he pays duties to the government, the Judge says : " No such right as the one supposed is purchased by the importer. He has not purchased and cannot purchase from the government, that which could not ensure to him a sale independent of the law and policy of the States."—[Ibid., 617.]

Hon. Justice Grier said : " It is not necessary to array the appalling statistics of misery, pauperism, and crime, which have their origin in the use and abuse of ardent spirits. The police power, which is exclusively in the State, is competent to the correction of these great evils, and all measures of restraint or prohibition

necessary to effect that purpose are within the scope of that authority, and if a loss of revenue should accrue to the United States from a diminished consumption of ardent spirits, she will be a gainer a thousand-fold in the health, wealth, and happiness of the people."—[Ibid., 532.]

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